

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 30-11

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: JANE OATES *Jane Oates*
Assistant Secretary

SUBJECT: Information and Guidance on the Work Opportunity Tax Credit Provisions Introduced by the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011, and IRS Guidance on Submission of Form 8850

- 1. Purpose.** The purpose of this advisory is to inform the State Workforce Agencies (SWAs) of new provisions that affect the Work Opportunity Tax Credit (WOTC) Veteran target group, to provide guidance for the effective and timely implementation of eligibility determinations for this group and its new categories, and to inform SWAs of Internal Revenue Service (IRS) guidance on the submission of Form 8850.
- 2. References.** VOW to Hire Heroes Act of 2011 (the VOW Act) (Pub. L. 112-56); the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, Recovery Act); Internal Revenue Code of 1986, Section 51, as amended; Paperwork Reduction Act of 1995; Internal Revenue Notice 2012-13, 2012-9 I.R.B.492 (Feb. 27, 2012); the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147); the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432); the Working Families Tax Relief Act of 2004 (Pub. L. 108-311); the Small Business and Work Opportunity Tax Credit Act of 2007 (Pub. L. 110-28); Training and Employment Guidance Letter (TEGL) No. 15-11, *Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse for Non-Veteran WOTC Target Groups*; TEGL No. 21-10, Change 1, *Clarification of Certain Work Opportunity Tax Credit (WOTC) Programmatic Policy Issues*, December 21, 2011; TEGL No. 21-10, *End Date for the Work Opportunity Tax Credit (WOTC) American Recovery and Reinvestment Act of 2009 (Recovery Act) Temporary Target Groups*, March 21, 2011; TEGL No. 19-05, *New Streamlined Reporting Requirements and Extension of the Information Collection for the Work Opportunity and Welfare-to-Work Tax Credits*; TEGL No. 20-06, *Reauthorization of the Work Opportunity Tax Credit and Other Program Changes*; TEGL No. 05-07,

RESCISSIONS None	EXPIRATION DATE: Continuing
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Reauthorization of the Work Opportunity Tax Credit and Other Program Changes; TEGL No. 11-08, Extension of the Information Collection for the Consolidated Work Opportunity Tax Credit Program: Revised Reporting and Processing Forms; TEGL No. 11-08, Change 1, Extension Period Granted to the State Workforce Agencies and Employers for the Uninterrupted Use of All 2007 and 2008 Work Opportunity Tax Credit Program Processing Forms; ETA Handbook No. 408, November 2002, Third Edition (the Handbook); and the updated November 2009 Addendum to the Handbook (Addendum, OMB No. 1205-0371).

3. **Background.** On November 21, 2011, President Obama signed into law the VOW Act (Pub. L. 112-56). Title II, subtitle D, section 261, "Returning Heroes and Wounded Warriors Work Opportunity Tax Credits," of the VOW Act amends and expands the definition of the WOTC "Qualified Veteran" target group in section 51 of the Internal Revenue Code (IRC) to grant a tax credit to employers for hiring certain qualified veterans.

The changes and new provisions in the VOW Act apply to individuals who begin to work for an employer on or after November 22, 2011, and before January 1, 2013. Section 261 amends the IRC Section 51(d)(3) definition of "Qualified Veteran" by adding two new unemployed veteran categories and also extends the availability of the existing veterans receiving Supplemental Nutrition Assistance Program (SNAP) and disabled veteran categories. The VOW Act also makes WOTC available to "qualified tax-exempt organizations" that hire qualified veterans.

The VOW Act only extends the availability of the WOTC for hiring members of the qualified veteran target group. All other WOTC target groups expired on December 31, 2011. The VOW Act also does not reauthorize the disconnected youth and unemployed veteran target groups that were enacted by the Recovery Act, which expired on December 31, 2010.

4. **IRS Notice 2012-13.** On February 9, 2012, the IRS issued Notice 2012-13 which provides procedural information for the SWAs and guidance for employers and their authorized representatives on the provisions in the VOW Act, and provides requirements related to the submission of IRS Form 8850. This Notice is provided as Attachment A and can also be found at <http://www.irs.gov/pub/irs-drop/n-12-13.pdf>.
5. **Overview of WOTC Provisions in the VOW Act.** The VOW Act includes the following provisions:
 - a) Extends the current category for veterans receiving SNAP benefits with the same qualified wages cap (\$6,000) for a maximum tax credit of up to \$2,400.

- b) Extends the current category for veterans with a service-connected disability with the same qualified wages cap (\$12,000) for a maximum tax credit of up to \$4,800.
 - c) Extends the current category for veterans with a service-connected disability unemployed for at least 6 months, with the qualified wages cap increased to \$24,000 for a maximum tax credit increase of up to \$9,600.
 - d) Establishes two new unemployed veterans categories as follows:
 - Veterans unemployed for at least 4 weeks with a qualified wages cap of \$6,000 and a maximum tax credit of up to \$2,400.
 - Veterans unemployed for at least 6 months with a qualified wages cap of \$14,000 and a maximum tax credit of up to \$5,600.
 - e) Makes WOTC available to “qualified tax-exempt organizations” that hire qualified veterans.
6. **Program Administration.** The VOW to Hire Heroes Act does not change the SWAs’ certification and program operation responsibilities from those described in the November 2002, Third Edition of ETA Handbook 408 (The Handbook) and the 2009 Addendum to the Handbook. These responsibilities include procedures for: a) determining targeted group eligibility by conducting verification activities and issuing certifications and denials; b) establishing working partnerships with different participating agencies at the state and local levels for resolving veteran-related technical issues and issuing conditional certifications; c) complying with quarterly reporting requirements; and d) complying with requirements for record retention time periods.
7. **Definitions for WOTC Veteran Group.** Section 51(d)(3) of the IRC provides a two-part definition of the term Qualified Veteran as follows:

First, section 51(d)(3)(B) defines veteran as any individual certified by a SWA as:

- Having: 1) served on active duty (other than active duty for training) for period of more than 180 days in the Armed Forces of the United States of America, or 2) been discharged or released from active duty in the Armed Forces of the United States of America for a service-connected disability; and
- Not having, during the 60-day period ending on the hiring date, any day of extended active duty in the Armed Forces in the United States of America.

Second, section 51(d)(3)(A) of the IRC identifies and defines five categories of veterans that comprise the second part of the Qualified Veteran definition. Three of the categories for the Qualified Veteran target group are unchanged. A Qualified Veteran is any veteran who is certified by a SWA as:

- Being a member of a family receiving assistance under the Supplemental Nutrition Assistance Program (SNAP) for at least a three-month period ending during the 12-month period, that ends before the hiring date (section 51(d)(3)(A)(i)); **or**
- Entitled to compensation for a service-connected disability; **and**
 - having a hiring date which is not more than one year after discharge or release from active duty (section 51(d)(3)(A)(ii)(I)); **or**
 - having aggregate periods of unemployment of six months or more during the one-year period ending on the hiring date (section 51(d)(3)(A)(ii)(II)).

The VOW to Hire Heroes Act adds two new unemployed veteran categories to the Qualified Veteran definition. For these categories, a Qualified Veteran is any veteran who is certified by a SWA as:

- Having aggregate periods of unemployment of at least 4 weeks but less than 6 months in the year prior to being hired (Section 51(d)(3)(A)(iii)).
- Having aggregate periods of unemployment of 6 months or more in the year prior to being hired (section 51(d)(3)(A)(iv)).

Note 1. The Recovery Act unemployed veteran category is not the same as the VOW Act unemployed veteran category, and the Recovery Act unemployed veteran category has expired.

Note 2. The requirement that a veteran had been discharged or released during the five-year period ending on the hiring day that was part of the definition of the Recovery Act unemployed veteran category is not part of the new unemployed veteran category authorized under the VOW Act.

8. Eligibility Determinations and Documentation Requirements. The documentary evidence that can be used for eligibility certifications for the Qualified Veteran target group and its new categories is provided below.

a) Veteran

For all of the categories in the amended and expanded veteran target group, the following documentation can be used to determine that the individual satisfies the definition of veteran:

- Form DD-214,
- Discharge papers, or

- Documentation for service-connected disability as described below.

b) Service-Connected Disability

The Department of Veterans Affairs (VA) stopped issuing Form Letter 21-802, which had been used by SWAs to verify a "service-connected disability" for the WOTC disabled veteran categories. SWAs should accept other documentation that would verify that an individual is eligible to receive or is receiving compensation for a "service-connected disability," so long as these documents are issued by the VA, are on agency letterhead or have an agency stamp, and include a signature and contact information from the individual at the agency who verified the disability information.

For example, the VA regularly issues letters to veterans after separation from the Armed Forces indicating that the individual has a service-connected disability for use in civil service preference or the receipt of benefits. If a veteran does not have such a letter, he or she may contact the national VA call center, at 1-800-827-1000, or his/her VA vocational rehabilitation counselor to obtain the letter.

c) Periods of Unemployment

For the four-week unemployed veteran category, the six-month unemployed veteran category, and the six-month unemployed disabled veteran category, the following documentation can be used to verify the required periods of aggregate unemployment:

- Unemployment Insurance (UI) claims records, or
- UI wage records.

9. **Determination of Periods of Unemployment.** As amended by the VOW Act, IRC Section 51 contains five veterans categories described in more detail in section 7 of this TEGL. Three of those categories relate to unemployment. They are:

- A four-week unemployed veteran category
- A six-month unemployed veteran category
- A six-month unemployed disabled veteran category

For all three of these categories, SWAs will certify a veteran as having the required aggregate periods of unemployment if the veteran received unemployment compensation for the relevant length of time -- either at least four weeks or at least six months. The required periods of unemployment do not need to be continuous, and can be cumulative throughout the one-year period preceding the hiring date. Therefore, receipt of unemployment

compensation does not need to be continuous, and can be any four weeks or six months, respectively, in the one-year period before the hiring date.

UI claims records are the best source of documentation to verify that a veteran received unemployment compensation. However, the Employment and Training Administration (ETA) recognizes that despite being unemployed, some veterans may not have received unemployment compensation during the required four-week or six-month periods, but nonetheless were unemployed during those periods. For example, an individual may have been unemployed, but chose not to apply for unemployment compensation; or an individual may have received unemployment compensation, but has since exhausted those benefits. Therefore, if unemployment cannot be verified through UI claims records, then states also must use UI wage records to determine whether an individual meets the unemployment criteria for the unemployed veteran or the disabled unemployed veteran categories by verifying that there are no earnings in the required time periods.

Most states maintain UI wage records on a quarterly basis. Regarding quarterly UI wage records, it is not possible to determine whether an individual is unemployed on a monthly or weekly basis by looking at that individual's wage records. Therefore, these states will only be able to verify the periods of unemployment if an entire quarter of wage records indicates no earnings. Specifically, section can determine whether a veteran meets the required periods of unemployment as follows:

- For the four-week unemployed veteran category, a veteran meets the unemployment criteria if there are no earnings in the individual's wage records in at least one of the quarters in the one-year period prior to the hiring date.
- For the six-month unemployed veteran category and six-month disabled veteran category, a veteran meets the unemployment criteria if there are no earnings in the individual's wage records in any two of the quarters in the one-year period prior to the hiring date. The two quarters of no earnings do not need to be continuous.

Some states maintain UI wage records on a weekly or monthly basis. These states can determine whether a veteran meets the required periods of unemployment as follows:

- For the four-week unemployed veteran category, a veteran meets the unemployment criteria if there are no earnings in the individual's wage records for any month, or any four weeks, in the one-year period prior to the hiring date. The four weeks of no earnings do not need to be continuous.

- For the six-month unemployed veteran category and six-month disabled veteran category, a veteran meets the unemployment criteria if there are no earnings in the individual's wage records for any six months, or any 24 weeks, in the one-year period prior to the hiring date. The six months or 24 weeks of no earnings do not need to be continuous.

10. Accessing Unemployment Insurance Claims and Wage Records. SWAs will need to use UI claims records and UI wage records to verify the required periods of unemployment for veterans. SWAs must negotiate with their state UI agency to determine the most efficient and effective way to access the UI claims records and wage data. Claim and wage information is required to be kept confidential by the state UI agency, and may only be disclosed under certain circumstances. Regulations at 20 CFR 603.5(g) permit the disclosure of unemployment compensation information "to a public official for use in the performance of his or her official duties."

Depending on the volume of anticipated requests and whether SWAs can provide the state UI agency with an informed consent release, SWAs may have to enter into a data exchange agreement. These agreements would provide for safeguarding the claim and wage information, allow for reimbursement of the costs to the UI agency, and include penalties for the misuse or unauthorized redisclosure of the information.

Further, if the SWA anticipates a large volume of data requests, this agreement with the state UI agency will include a description of the specific information to be furnished, the purposes for which the information is sought, and information on the method and timing of requests, as well as the format to be used for the requests and responses.

To obtain information from the state UI agency, SWAs must provide a Social Security Number for each participant for whom claim or wage data is sought. In those instances where the SWA anticipates a large volume of requests for data, the state UI agency may require that the request be made electronically.

If only a few requests for claim or wage data are anticipated, it may be easier to obtain an informed consent release from the employee. State UI agencies are not required to obtain reimbursement for providing the requested information if the amount of staff time in responding to the request is incidental and only nominal processing costs are involved in making the disclosure. SWAs that choose to use informed consent releases from employees will need to work with employers to ensure that informed consent releases are collected at the time of hire. Because confidentiality laws vary by

state, SWAs should work with their state UI agencies to determine the necessary form and content of the informed consent release.

11. **ETA Program Forms.** ETA has revised and updated all program processing, administrative and reporting forms to reflect the amendments and new provisions introduced by the VOW Act, as well as the expiration of the Recovery Act target groups. A package seeking clearance of the forms and a three-year extension, through December 31, 2015, has been submitted to the Office of Management and Budget (OMB). Upon approval from OMB, ETA will release the final forms.

To facilitate the processing job by the SWAs and the application process by employers or their representatives, ETA is providing advanced drafts of ETA Forms 9061, 9062, 9063, 9065 and 9058, stamped with the watermark "SAMPLE" as Attachment I. These are unofficial forms, not to be used by the SWAs or employers/representatives until final clearance by OMB. At that time, ETA will issue a TEGL transmitting all program forms and related procedural guidance for use of the approved forms. The revised ETA forms will then be available at:

<http://www.doleta.gov/business/incentives/opptax/forms.cfm>. Until forms are officially issued, SWAs and the business sector are to continue to follow the interim instructions on filing forms that were released on December 2, 2011 (for employers) and on quarterly reporting that were released on December 27, 2011 (for SWAs), and both updated in April 2012.

12. **IRS Form 8850.** The IRS has updated IRS Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity Tax Credit*, and its instructions to reflect the provisions introduced by the VOW Act. (The updated form and instructions are available at: www.irs.gov/form8850.)
13. **Transition Relief for Employer Submission of Form 8850.** Section III of IRS Notice 2012-13 provides employers with transition relief from the 28-day timely filing requirement by providing additional time to file the pre-screening notice, IRS Form 8850, with SWAs. **Accordingly, an employer who hires a qualified veteran on or after November 22, 2011 and before May 22, 2012 can satisfy the timely filing requirement if the employer submits IRS Form 8850 along with ETA Form 9061 or Form 9062 to the SWA to request certification not later than June 19, 2012. An employer that hires a qualified veteran on or after May 22, 2012 and before January 1, 2013 must meet the 28-day timely filing requirement.**
14. **Qualified Tax-Exempt Organizations.** Section 261(e) of the VOW Act also makes WOTC available to "qualified tax-exempt organizations." Specifically, the Act provides that qualified tax-exempt organizations that hire qualified

veterans on or after November 22, 2011 and before January 1, 2013 may claim a credit against the employer's share of social security tax. A qualified tax-exempt organization for purposes of the WOTC is an organization described in IRC section 501(c) that is exempt from tax under IRC section 501(a). IRS Notice 2012-13 provides detailed information on the use of WOTC by tax-exempt organizations. Information on 501(c) organizations is available in the IRS Publication 557, *Tax-Exempt Status for Your Organization*, available at: <http://www.irs.gov/pub/irs-pdf/p557.pdf>.

15. Filing of Form 8850 with Electronic Signatures. Section IV of IRS Notice 2012-13 provides the following guidance on the filing of Form 8850 with electronic signatures:

Before any employer may claim the WOTC for hiring any member of a targeted group (or, for qualified tax-exempt organizations, the § 3111(e) credit for hiring a qualified veteran), that individual must be certified by the [SWA] as a member of a targeted group. Section 51(d)(13)(A)(ii)(II) requires that, not later than the 28th day after the individual begins work for the employer, the employer submit a notice, signed by the employer and the individual under penalties of perjury, to the [SWA] as part of a written request for certification. For purposes of this Section IV, "employer" refers to any employer required to submit a Form 8850 in order to obtain the WOTC under § 51 or the equivalent credit under § 3111(e), or an authorized representative of such an employer.

Employers may submit Form 8850 to the [SWA] electronically if the employer's system satisfies the requirements in Ann. 2002-44, 2002-1 C.B. 809. This Notice makes available to employers two alternative methods of certification using electronic signatures in addition to the electronic submission of Form 8850 as provided in Ann. 2002-44. The alternative methods are available to any employer required to submit a Form 8850 in order to obtain the WOTC for any member of any targeted group under § 51 or the equivalent credit under § 3111(e).

First, an employer may print out a paper copy of the Form 8850 that was signed electronically by both the applicant and the employer in accordance with the requirements of Ann. 2002-44, and transmit that paper copy to the [SWA] (by mail or by facsimile following the rules in Section V of this notice).

Second, an employer may file Form 8850 using a method under which the applicant signs electronically but the employer signs in ink. More specifically, the applicant signs Form 8850 electronically and the Form 8850 is transmitted electronically to the employer in accordance with the requirements detailed below. Once received and printed out, the paper copy of the Form 8850 shows "signed electronically" in the field for the applicant's signature. The employer signs that paper copy of that Form 8850 in ink, complying with the signature and jurat requirements on Form 8850 and the Form 8850 instructions for the paper copy of Form 8850, and transmits that

paper copy to the [SWA] (by mail or by facsimile following the rules in Section V of this notice). Under this second alternative method, the employer must satisfy all five of the following requirements with respect to the Form 8850 that is electronically signed by the applicant:

(i) In General. The electronic system must ensure that the information received is the information sent, and it must document all occasions of access that result in the transmission of a Form 8850. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the applicant signing the Form 8850, accessing the system, and submitting the Form 8850 is the applicant identified in the form.

(ii) Same Information as Paper Form 8850. The electronically signed Form 8850 must provide the [SWA] with exactly the same information as the paper Form 8850.

(iii) Jurat and Signature Requirements. The Form 8850 must be signed electronically by the applicant under penalties of perjury.

(A) Jurat. The jurat (perjury statement) must contain the language that appears on the paper Form 8850 for the applicant. The electronic system must inform the applicant that he or she must make the declaration contained in the jurat and that the declaration is made by signing the Form 8850. The instructions and the language of the jurat must immediately follow the information provided by the applicant, and must immediately precede the applicant's electronic signature.

(B) Electronic Signature. The electronic signature must (1) identify the applicant whose name is on the Form 8850 and the employer submitting the Form 8850, and (2) authenticate and verify the form. For this purpose, the terms "authenticate" and "verify" have the same meaning as they do when applied to a written signature on a paper Form 8850. An electronic signature can be in any form that satisfies the foregoing requirements.

(iv) Copies of Form 8850. The employer must be able to supply and, upon request by the IRS, the employer must supply (1) a paper copy of the Form 8850 submitted to the [SWA], and (2) a statement that, to the best of the employer's knowledge, the Form 8850 was submitted by the employer with respect to the named applicant. The paper copy of the electronically signed Form 8850 must provide exactly the same information as, but need not be a facsimile of, the paper Form 8850.

(v) Retention of Forms 8850 by the [SWAs] and Employers. Forms 8850 with an applicant's electronic signature have the same status as paper Forms 8850.

Therefore, guidance that applies to paper Forms 8850 also applies to these Forms 8850. For example, as is the case for paper Forms 8850, electronic Forms 8850 are required to be retained by employers under their established record-keeping systems. For further information, see Rev. Proc. 98-25, 1998-1 C.B. 689, on information regarding the retention of records within an Automatic Data Processing System.

For additional information, a copy of IRS Notice 2012-13 and Announcement 2002-44 are included as attachments to this guidance.

Note 1. The IRS instructions to Form 8850 also indicate that electronic filing of Form 8850 is permitted and include a list of states equipped to receive the form electronically at the time the instructions were published. However, this list was not intended to limit electronic filing of Form 8850 to only those states. SWAs may implement electronic filing as long as all of the requirements in IRS Announcement 2002-44 and IRS Notice 2012-13 are met. SWAs do not need prior approval from either ETA or the IRS for electronic submission of Form 8850.

Note 2. The IRS guidance regarding filing of Form 8850 with electronic signatures, as well as the alternative method of filing or signing by facsimile addressed below, applies to all target groups authorized under WOTC. Therefore, when the non-veteran WOTC groups are re-authorized by Congress, then this guidance will be applicable to those target groups as well.

16. Alternative Method of Filing or Signing Form 8850 – Filing or Signing by Facsimile. Section V of IRS Notice 2012-13 provides the following guidance on alternative methods of filing or signing Form 8850 by facsimile:

In addition to the electronic signature method of filing Form 8850 described in Section IV [of IRS Notice 2012-13], the IRS will also allow the facsimile transmission of applicant and employer signatures on a Form 8850 if the applicable [SWA] accepts Form 8850 via facsimile, the applicant and employer intend the signatures on the faxed copy to be their signatures for purposes of the document, and the requirements of paragraphs (1) and (2) below are satisfied:

(1) Same Information as Paper Form 8850. The facsimile submission is a reproduction of Form 8850 that provides the [SWA] with exactly the same information as the paper Form 8850.

(2) Signature and Transmission Requirements. The Form 8850 is signed by the applicant and the employer, under penalties of perjury, and transmitted to the [SWA] in the following manner:

(i) *An original Form 8850 is completed in paper copy and then signed in ink by the applicant;*

(ii) *The original Form 8850, signed by the applicant, is delivered to the employer either in person or by facsimile;*

(iii) *The employer signs in ink either the paper copy of Form 8850 that was signed by the applicant or the facsimile of that paper copy; and*

(iv) *The employer mails or faxes the signed Form 8850 to the [SWA] within the time prescribed by § 51(d)(13)(A)(ii) (or within the period authorized under Section III of this notice).*

For purposes of this Section V, "employer" refers to any employer required to submit a Form 8850 in order to obtain the WOTC for any member of any targeted group under § 51 or the equivalent credit under § 3111(e), or an authorized representative of such an employer.

Note 1. SWAs may choose to accept the facsimile transmission of the Form 8850, but are not required to do so.

17. Action Requested. ETA requests SWA administrators to:

- a) Provide this information to appropriate program staff, employers and their representatives, participating agencies, and other interested partners;
- b) Ensure that the SWAs and participating agencies administer the new provisions and changes to the veteran groups in accordance with the guidance in this TEGL, the Handbook, and sections 51, 52 and 3111(e) of the IRC of 1986, as amended;
- c) Remind SWAs and employers to wait for the TEGL transmitting the OMB approved and final forms before using the new WOTC forms. During this waiting period both SWAs and employers must follow the Interim Instructions ETA released in December 2011 and updated in April 2012; and
- d) Ensure that state coordinators receive copies of the attached "sample" forms, VOW legislation and IRS guidance notice.

18. Inquiries. Direct all questions to the appropriate Regional WOTC Coordinator, whose names and contact information are available at: <http://www.doleta.gov/business/incentives/opptax/contacts.cfm>.

19. Attachments.

- **Attachment A.** IRS Notice 2012-13
- **Attachment B.** Section 261 of the VOW to Hire Heroes Act of 2011, Title II, Subtitle D, (P. L. 112-56), November 21, 2011
- **Attachment C.** Drafts of "SAMPLE" ETA Forms 9061, 9062, 9063, 9065 and 9058
- **Attachment D.** IRS Announcement 2002-44

Part III - Administrative, Procedural, and Miscellaneous

Section 51 - Work Opportunity Tax Credit; Section 52 – Special Rules;

Section 3111(e) – Credit for Employment of Qualified Veterans

Notice 2012-13

I. PURPOSE

This notice provides guidance on Returning Heroes and Wounded Warriors Work Opportunity Tax Credits, included as § 261 of the VOW to Hire Heroes Act of 2011, Title II, subtitle D, of Pub. L. No. 112-056 (Act), enacted on November 21, 2011. Section 261 of the Act amended §§ 51, 52, and 3111 of the Internal Revenue Code to provide a credit for hiring certain qualified veterans. This notice also provides employers who hire qualified veterans additional time beyond the 28-day deadline in § 51(d)(13) for submitting Form 8850, Pre-screening Notice and Certification Request for the Work Opportunity Credit, to Designated Local Agencies (DLAs).

This notice provides additional guidance on electronic signature and electronic submission of Form 8850 and also informs all employers that the Internal Revenue

Service (IRS) will allow the signature and submission of Form 8850 by facsimile to DLAs that choose to accept such submissions.

This notice also requests comments on alternative methods for certification of a veteran as a qualified veteran described in clause (ii)(II), (iii), or (iv) of § 51(d)(3)(A),

II. BACKGROUND

Section 51 provides for a Work Opportunity Tax Credit (WOTC) for employers who hire individuals who are members of targeted groups. An employer must obtain certification that an individual is a targeted group member before the employer may claim the credit. Certification of an individual's targeted group status is obtained from a DLA. A DLA is a State employment security agency established in accordance with 29 U.S.C. §§ 49-49n. An employer must submit Form 8850 to the DLA not later than the 28th day after the individual begins work for the employer.

The WOTC applies to certain wages paid or incurred by employers with respect to a member of a targeted group. Prior to enactment of the Act, § 51(c)(4)(B) provided that wages paid or incurred with respect to an individual who begins work for the employer after December 31, 2011, are not taken into account for purposes of the WOTC. Thus, the credit is not available with respect to wages for persons who begin work after December 31, 2011, other than qualified veterans. The Act extended the

credit only with respect to qualified veterans who begin work for the employer on or before December 31, 2012.

The Act amends § 51(d)(3) to add two new categories to the qualified veteran targeted group. Under new § 51(d)(3)(A)(iii) and (iv), a qualified veteran is a veteran certified as having aggregate periods of unemployment of at least 4 weeks but less than 6 months in the year prior to being hired or certified as having aggregate periods of unemployment of 6 months or more in the year prior to being hired.

The amount of wages that an employer may take into account in computing the credit differs for the various categories of qualified veterans. The Act amends § 51(b)(3), which provides the amount of qualified wages that an employer may take into account in calculating the WOTC. Section 51(b)(3), as amended, provides that the amount of qualified wages taken into account is limited to \$6,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(i) (a veteran certified as being a member of a family receiving assistance under a supplemental nutrition assistance program under the Food and Nutrition Act of 2008 for at least a 3-month period ending during the 12-month period ending on the hiring date) and subsection (d)(3)(A)(iii) (a veteran certified as having aggregate periods of unemployment of at least 4 weeks but less than 6 months in the year prior to being hired); \$12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I) (a disabled veteran who is certified as having a hiring date which is not more than 1 year after discharge or release from active duty);

\$14,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(iv) (a veteran certified as having aggregate periods of unemployment of 6 months or more in the year prior to being hired); and \$24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II) (a disabled veteran who is certified as having aggregate periods of unemployment of 6 months or more in the year prior to being hired).

The Act amends § 51(d)(13)(D) to provide that a veteran will be treated as being certified as having the requisite aggregate period of unemployment by the DLA if the veteran is certified as being in receipt of unemployment compensation for the applicable period. The Act also allows the Secretary of the Treasury to provide, at the Secretary's discretion, alternative methods for certification of a veteran as a qualified veteran described in clause (ii)(II), (iii), or (iv) of § 51(d)(3)(A).

The Act amends § 51(c)(4)(B) to extend the credit and allow an employer to claim the WOTC for qualified wages paid or incurred by the employer to a qualified veteran who begins work on or before December 31, 2012.

The Act also amends § 52 and § 3111 to make a credit available to "qualified tax-exempt organizations" that hire qualified veterans for which the WOTC would have been allowable under § 51 if the organization were not a qualified tax-exempt organization. Specifically, the Act adds new § 3111(e), which permits qualified tax-exempt

organizations that hire qualified veterans on or after November 22, 2011, to claim a credit against the employer share of social security tax imposed under § 3111(a).

The credit under § 3111(e)(1) is a credit against the tax imposed by § 3111(a) on wages paid by the qualified tax-exempt organization with respect to employment of all employees of the organization during the applicable period. Section 3111(e)(4) defines the “applicable period” as the 1-year period beginning with the day the qualified veteran begins work for the organization. The amount of the credit under § 3111(e) equals the amount of the credit determined under § 51 (after application of the modifications under § 3111(e)(3)) with respect to wages paid to the qualified veteran during the applicable period. However, under § 3111(e)(2), the aggregate amount allowed as a credit under § 3111(e) for all qualified veterans for any period with respect to which tax is imposed under § 3111(a) cannot exceed the amount of the employer social security tax imposed by § 3111(a) on all wages paid by the employer during such period.

As indicated above, the amount of the credit under § 3111(e) is determined under § 51 but is subject to modifications under § 3111(e)(3). Specifically, § 3111(e)(3) modifies the amount of the credit available to the qualified tax-exempt organization to 16.25 percent (rather than 25 percent) of the qualified first-year wages for the applicable period if the veteran performs less than 400 hours but at least 120 hours of service, or 26 percent (rather than 40 percent) of the qualified first-year wages for the applicable period if the veteran performs at least 400 hours of service for the qualified tax-exempt organization. Further, to calculate the amount of the credit, the qualified tax-exempt

organization only takes into account the wages paid to a qualified veteran for services in furtherance of activities related to the purpose or function constituting the basis of the organization's exemption under § 501. For example, wages for services in an unrelated trade or business (as defined in § 513) are not counted for purposes of the credit. Although wages are defined for purposes of the WOTC under § 51 as wages under the Federal Unemployment Tax Act, for purposes of the credit available to qualified tax-exempt organizations under § 3111(e), the term "wages" refers to wages under the Federal Insurance Contributions Act.

New § 3111(e)(5)(A) defines "qualified tax-exempt organization" as an employer that is an organization described in § 501(c) and exempt from taxation under § 501(a). Accordingly, an employer that is an agency or instrumentality of the federal government, or of a state, local, or Indian tribal government, is not a qualified tax-exempt organization unless it is an organization described in § 501(c) that is exempt from tax under § 501(a).

The requirements for certification under § 51, as amended by the Act, apply to qualified tax-exempt organizations as well as to taxable employers. Accordingly, a qualified tax-exempt organization must obtain certification, as required under § 51, that an individual is a qualified veteran before it may claim the credit. The transition relief, guidance on filing Forms 8850 with electronic signatures, and allowance of signature and submission of Form 8850 by facsimile provided for in this notice apply to all employers, including qualified tax-exempt organizations.

III. TRANSITION RELIEF

Section 51(d)(13)(A) provides that an individual shall not be treated as a member of a targeted group unless (1) on or before the day the individual begins work, the employer obtains certification from the DLA that the individual is a member of a targeted group; or (2) the employer completes a pre-screening notice (Form 8850) on or before the day the individual is offered employment and submits such notice to the DLA to request certification not later than 28 days after the individual begins work. Because the credit, as amended, became effective on the day after enactment, the Treasury Department and the IRS believe it is appropriate to provide employers with additional time to file Form 8850 with a DLA. Accordingly, any employer who hires any qualified veteran described in § 51(d)(3) on or after November 22, 2011, and before May 22, 2012, will be considered to satisfy the requirements of § 51(d)(13)(A)(ii) if the employer submits the completed pre-screening notice to the DLA to request certification not later than June 19, 2012.

IV. FILING OF FORM 8850 WITH ELECTRONIC SIGNATURES

Before any employer may claim the WOTC for hiring any member of a targeted group (or, for qualified tax-exempt organizations, the § 3111(e) credit for hiring a qualified veteran), that individual must be certified by the DLA as a member of a targeted group. Section 51(d)(13)(A)(ii)(II) requires that, not later than the 28th day after

the individual begins work for the employer, the employer submit a notice, signed by the employer and the individual under penalties of perjury, to the DLA as part of a written request for certification. For purposes of this Section IV, "employer" refers to any employer required to submit a Form 8850 in order to obtain the WOTC under § 51 or the equivalent credit under § 3111(e), or an authorized representative of such an employer.

Employers may submit Form 8850 to the DLA electronically if the employer's system satisfies the requirements in Ann. 2002-44, 2002-1 C.B. 809. This Notice makes available to employers two alternative methods of certification using electronic signatures in addition to the electronic submission of Form 8850 as provided in Ann. 2002-44. The alternative methods are available to any employer required to submit a Form 8850 in order to obtain the WOTC for any member of any targeted group under § 51 or the equivalent credit under § 3111(e).

First, an employer may print out a paper copy of the Form 8850 that was signed electronically by both the applicant and the employer in accordance with the requirements of Ann. 2002-44, and transmit that paper copy to the DLA (by mail or by facsimile following the rules in Section V of this notice).

Second, an employer may file Form 8850 using a method under which the applicant signs electronically but the employer signs in ink. More specifically, the applicant signs Form 8850 electronically and the Form 8850 is transmitted electronically

to the employer in accordance with the requirements detailed below. Once received and printed out, the paper copy of the Form 8850 shows "signed electronically" in the field for the applicant's signature. The employer signs that paper copy of that Form 8850 in ink, complying with the signature and jurat requirements on Form 8850 and the Form 8850 instructions for the paper copy of Form 8850, and transmits that paper copy to the DLA (by mail or by facsimile following the rules in Section V of this notice). Under this second alternative method, the employer must satisfy all five of the following requirements with respect to the Form 8850 that is electronically signed by the applicant:

(i) In General. The electronic system must ensure that the information received is the information sent, and it must document all occasions of access that result in the transmission of a Form 8850. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the applicant signing the Form 8850, accessing the system, and submitting the Form 8850 is the applicant identified in the form.

(ii) Same Information as Paper Form 8850. The electronically signed Form 8850 must provide the DLA with exactly the same information as the paper Form 8850.

(iii) Jurat and Signature Requirements. The Form 8850 must be signed electronically by the applicant under penalties of perjury.

(A) Jurat. The jurat (perjury statement) must contain the language that appears on the paper Form 8850 for the applicant. The electronic system must inform the applicant that he or she must make the declaration contained in the jurat and that the declaration is made by signing the Form 8850. The instructions and the language of the jurat must immediately follow the information provided by the applicant, and must immediately precede the applicant's electronic signature.

(B) Electronic Signature. The electronic signature must (1) identify the applicant whose name is on the Form 8850 and the employer submitting the Form 8850, and (2) authenticate and verify the form. For this purpose, the terms "authenticate" and "verify" have the same meaning as they do when applied to a written signature on a paper Form 8850. An electronic signature can be in any form that satisfies the foregoing requirements.

(iv) Copies of Form 8850. The employer must be able to supply and, upon request by the IRS, the employer must supply (1) a paper copy of the Form 8850 submitted to the DLA, and (2) a statement that, to the best of the employer's knowledge, the Form 8850 was submitted by the employer with respect to the named applicant. The paper copy of the

electronically signed Form 8850 must provide exactly the same information as, but need not be a facsimile of, the paper Form 8850.

(v) Retention of Forms 8850 by the DLAs and Employers. Forms 8850 with an applicant's electronic signature have the same status as paper Forms 8850. Therefore, guidance that applies to paper Forms 8850 also applies to these Forms 8850. For example, as is the case for paper Forms 8850, electronic Forms 8850 are required to be retained by employers under their established record-keeping systems. For further information, see Rev. Proc. 98-25, 1998-1 C.B. 689, on information regarding the retention of records within an Automatic Data Processing System.

V. ALTERNATIVE METHOD OF FILING OR SIGNING FORM 8850--FILING OR SIGNING BY FACSIMILE

In addition to the electronic signature method of filing Form 8850 described in Section IV, the IRS will also allow the facsimile transmission of applicant and employer signatures on a Form 8850 if the applicable DLA accepts Form 8850 via facsimile, the applicant and employer intend the signatures on the faxed copy to be their signatures for purposes of the document, and the requirements of paragraphs (1) and (2) below are satisfied:

(1) Same Information as Paper Form 8850. The facsimile submission is a reproduction of Form 8850 that provides the DLA with exactly the same information as the paper Form 8850.

(2) Signature and Transmission Requirements. The Form 8850 is signed by the applicant and the employer, under penalties of perjury, and transmitted to the DLA in the following manner:

(i) An original Form 8850 is completed in paper copy and then signed in ink by the applicant;

(ii) The original Form 8850, signed by the applicant, is delivered to the employer either in person or by facsimile;

(iii) The employer signs in ink either the paper copy of Form 8850 that was signed by the applicant or the facsimile of that paper copy; and

(iv) The employer mails or faxes the signed Form 8850 to the DLA within the time prescribed by § 51(d)(13)(A)(ii) (or within the period authorized under Section III of this notice).

For purposes of this Section V, "employer" refers to any employer required to submit a Form 8850 in order to obtain the WOTC for any member of any targeted group

under § 51 or the equivalent credit under § 3111(e), or an authorized representative of such an employer.

VI. GUIDANCE FOR TAX-EXEMPT ORGANIZATIONS

Qualified tax-exempt organizations entitled to a credit under § 3111(e) must use Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans, to claim the credit. Although the credit under § 3111(e) is applied against the employer social security tax liability for the employment tax period in which the credit is claimed, the liability reported on the qualified tax-exempt organization's employment tax return (e.g., Form 941) is not reduced when that return is filed. Rather, the IRS will process Form 5884-C separately and refund the amount properly claimed on Form 5884-C to the qualified tax-exempt organization, subject to the limit of the amount of employer social security tax liability for the period in which the credit is claimed. Because Form 5884-C will generally not be processed simultaneously with the qualified tax-exempt organization's employment tax return, it is recommended that qualified tax-exempt organizations not reduce their required deposits in anticipation of any credit. A qualified tax-exempt organization that reduces its required employment tax deposits in anticipation of a credit under § 3111(e) may receive a system-generated notice; however, the balance due, including any related penalties and interest, resulting from the reduction in deposits to reflect the credit under § 3111(e), will be abated when the credit is applied, generally without any taxpayer action.

Form 5884-C is filed separately and should not be attached to any other return filed by the qualified tax-exempt organization. Form 5884-C should be filed after the qualified tax-exempt organization files its employment tax return for the tax period for which the credit is claimed and in accordance with the Form 5884-C instructions. Form 5884-C can be filed immediately after the qualified tax-exempt organization files its employment tax return and it must be filed within 2 years from the date the tax reported on the employment tax return was paid, or 3 years from the date the employment tax return was filed, whichever is later.

The qualified tax-exempt organization using Form 5884-C must calculate the cumulative credit to which the qualified tax-exempt organization is entitled under § 3111(e) for all qualified veterans hired on or after November 22, 2011. The qualified tax-exempt organization must reduce the cumulative credit by any credits claimed on any Forms 5884-C filed for prior tax periods. The amount refunded will be limited to the amount of employer social security tax reported on the employment tax return filed by the qualified tax-exempt organization for the employment tax period for which the credit is claimed. Any excess credit (i.e., any credit that exceeds the employer social security tax for the period the credit is claimed) may be carried forward and will be included in the qualified tax-exempt organization's cumulative calculation on Form 5884-C filed for a subsequent tax period to the extent provided in the instructions to Form 5884-C.

VII. REQUEST FOR COMMENTS

The Treasury Department and the IRS request comments on alternative methods for certification of a veteran as a qualified veteran described in § 51(d)(3) in addition to the methods of signing and filing electronically or by facsimile described in this notice. In particular, comments related to certification of a veteran as a qualified veteran described in clause (ii)(II), (iii), or (iv) of § 51(d)(3)(A) are requested. Comments are also requested on alternative methods of filing Form 8850. Comments must be submitted by April 12, 2012. All materials submitted will be available for public inspection and copying. Comments should be submitted to Internal Revenue Service, CC:PA:LPD:RU (Notice 2012-13), Room 5203, PO Box 7604, Ben Franklin Station, Washington, DC 20224. Submissions may also be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to the Courier's Desk, 1111 Constitution Avenue, NW, Washington, DC 20224, Attn: CC:PA:LPD:RU (Notice 2012-13), Room 5203. Submissions may also be sent electronically via the internet to the following email address: Notice.comments@irs.counsel.treas.gov. Include the notice number (Notice 2012-13) in the subject line.

VIII. EFFECT ON OTHER DOCUMENTS

This Notice supplements Ann. 2002-44, 2002-1 C.B. 809.

EFFECTIVE DATE

Amendments made to § 51, § 52, and § 3111 by the Act are effective for individuals who begin work for the employer on or after November 22, 2011. As

described in Section III, any employer who hires any qualified veteran described in § 51(d)(3) on or after November 22, 2011, and before May 22, 2012, will be considered to satisfy the requirements of § 51(d)(13)(A)(ii) if the employer submits the completed pre-screening notice to the DLA to request certification not later than June 19, 2012. The alternative methods of signing and filing Forms 8850, as described in Sections IV and V, are effective for Forms 8850 filed with a DLA on or after March 10, 2012.

DRAFTING INFORMATION

The principal authors of this notice are Robin Ehrenberg and Ligeia Donis of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information on the submission of comments or the comments submitted, contact Regina Johnson at (202) 622-7180 (not a toll-free number). For further information regarding the WOTC for qualified veterans, electronic filing, and facsimile submissions, contact Ms. Ehrenberg at (202) 622-6080 (not a toll-free number). For further information on how to claim the WOTC on behalf of tax-exempt organizations, contact Ligeia Donis at (202) 622-6040 (not a toll-free number).

Public Law 112-56, November 21, 2011.

The Vow to Hire Heroes Act of 2011

Subtitle E—Other Matters

SEC. 261. RETURNING HEROES AND WOUNDED WARRIORS WORK OPPORTUNITY TAX CREDITS.

(a) **IN GENERAL.**—Paragraph (3) of section 51(b) of the Internal Revenue Code of 1986 is amended by striking “(\$12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii))” and inserting “(\$12,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(I), \$14,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(iv), and \$24,000 per year in the case of any individual who is a qualified veteran by reason of subsection (d)(3)(A)(ii)(II))”.

(b) **RETURNING HEROES TAX CREDITS.**—Subparagraph (A) of section 51(d)(3) of the Internal Revenue Code of 1986 is amended—

- (1) by striking “or” at the end of clause (i),
- (2) by striking the period at the end of clause (ii)(II), and
- (3) by adding at the end the following new clauses:

“(iii) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 4 weeks (but less than 6 months), or

“(iv) having aggregate periods of unemployment during the 1-year period ending on the hiring date which equal or exceed 6 months.”.

(c) **SIMPLIFIED CERTIFICATION.**—Paragraph (13) of section 51(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(D) **CREDIT FOR UNEMPLOYED VETERANS.**—

“(i) **IN GENERAL.**—Notwithstanding subparagraph (A), for purposes of paragraph (3)(A)—

“(I) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (ii)(II) or (iv) of such paragraph (whichever is applicable) if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 6 months during the 1-year period ending on the hiring date, and

“(II) a veteran will be treated as certified by the designated local agency as having aggregate periods of unemployment meeting the requirements of clause (iii) of such paragraph if such veteran is certified by such agency as being in receipt of unemployment compensation under State or Federal law for not less than 4 weeks (but less than 6 months) during the 1-year period ending on the hiring date.

“(ii) **REGULATORY AUTHORITY.**—The Secretary may provide alternative methods for certification of a veteran as a qualified veteran described in clause (ii)(II), (iii), or (iv) of paragraph (3)(A), at the Secretary’s discretion.”.

(d) **EXTENSION OF CREDIT.**—Subparagraph (B) of section 51(c)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) after—

ATTACHMENT B

“(i) December 31, 2012, in the case of a qualified veteran, and
“(ii) December 31, 2011, in the case of any other individual.”.

(e) CREDIT MADE AVAILABLE TO TAX-EXEMPT ORGANIZATIONS IN CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—Subsection (c) of section 52 of the Internal Revenue Code of 1986 is amended—

(A) by inserting “(1) IN GENERAL.—” before “No credit”, and
(B) by adding at the end the following new paragraph:

“(2) CREDIT MADE AVAILABLE TO QUALIFIED TAX-EXEMPT ORGANIZATIONS EMPLOYING QUALIFIED VETERANS.—For credit against payroll taxes for employment of qualified veterans by qualified tax-exempt organizations, see section 3111(e).”.

(2) CREDIT ALLOWABLE.—Section 3111 of such Code is amended by adding at the end the following new subsection:

“(e) CREDIT FOR EMPLOYMENT OF QUALIFIED VETERANS.—

“(1) IN GENERAL.—If a qualified tax-exempt organization hires a qualified veteran with respect to whom a credit would be allowable under section 38 by reason of section 51 if the organization were not a qualified tax-exempt organization, then there shall be allowed as a credit against the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during the applicable period an amount equal to the credit determined under section 51 (after application of the modifications under paragraph (3)) with respect to wages paid to such qualified veteran during such period.

“(2) OVERALL LIMITATION.—The aggregate amount allowed as a credit under this subsection for all qualified veterans for any period with respect to which tax is imposed under subsection (a) shall not exceed the amount of the tax imposed by subsection (a) on wages paid with respect to employment of all employees of the organization during such period.

“(3) MODIFICATIONS.—For purposes of paragraph (1), section 51 shall be applied—

“(A) by substituting ‘26 percent’ for ‘40 percent’ in subsection (a) thereof,

“(B) by substituting ‘16.25 percent’ for ‘25 percent’ in subsection (i)(3)(A) thereof, and

“(C) by only taking into account wages paid to a qualified veteran for services in furtherance of the activities related to the purpose or function constituting the basis of the organization’s exemption under section 501.

“(4) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any qualified veteran, the 1-year period beginning with the day such qualified veteran begins work for the organization.

“(5) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘qualified tax-exempt organization’ means an employer that is an organization described in section 501(c) and exempt from taxation under section 501(a), and

“(B) the term ‘qualified veteran’ has meaning given such term by section 51(d)(3).”.

(3) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by paragraphs (1) and (2). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(f) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

ATTACHMENT B

(A) MIRROR CODE POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the amendments made by this section. Such amounts shall be determined by the Secretary of the Treasury based on information provided by the government of the respective possession of the United States.

(B) OTHER POSSESSIONS.—The Secretary of the Treasury shall pay to each possession of the United States which does not have a mirror code tax system the amount estimated by the Secretary of the Treasury as being equal to the loss to that possession that would have occurred by reason of the amendments made by this section if a mirror code tax system had been in effect in such possession.

The preceding sentence shall not apply with respect to any possession of the United States unless such possession establishes to the satisfaction of the Secretary that the possession has implemented (or, at the discretion of the Secretary, will implement) an income tax benefit which is substantially equivalent to the income tax credit in effect after the amendments made by this section.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—The credit allowed against United States income taxes for any taxable year under the amendments made by this section to section 51 of the Internal Revenue Code of 1986 to any person with respect to any qualified veteran shall be reduced by the amount of any credit (or other tax benefit described in paragraph (1)(B)) allowed to such person against income taxes imposed by the possession of the United States by reason of this subsection with respect to such qualified veteran for such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term “possession of the United States” includes American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term “mirror code tax system” means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from credit provisions described in such section.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.



**Individual Characteristics Form (ICF)
Work Opportunity Tax Credit**

1. Control No. (For Agency use only)	APPLICANT INFORMATION (See instructions on reverse)		2. Date Received (For Agency Use only)
EMPLOYER INFORMATION			
3. Employer Name	4. Employer Address and Telephone	5. Employer Federal ID Number (EIN)	
APPLICANT INFORMATION			
6. Applicant Name (Last, First, MI)	7. Social Security Number	8. Have you worked for this employer before? Yes ___ No ___ If YES, enter last date of employment: _____	
APPLICANT CHARACTERISTICS FOR WOTC TARGET GROUP CERTIFICATION			
9. Employment Start Date	10. Starting Wage	11. Position	
12. Are you at least age 16, but under age 40? If YES, enter your date of birth: _____		Yes ___ No ___	
13. Are you a Veteran of the U.S. Armed Forces? If NO, go to Box 14. If YES, are you a member of a family that received Supplemental Nutrition Assistance Program (SNAP) benefits (Food Stamps) for at least 3 months during the 15 months before you were hired? If YES, enter name of primary recipient _____ and city and state where benefits were received _____. OR, are you a veteran entitled to compensation for a service-connected disability? If YES, were you discharged or released from active duty within a year before you were hired? OR, were you unemployed for a combined period of at least 6 months (whether or not consecutive) during the year before you were hired?		Yes ___ No ___ Yes ___ No ___ Yes ___ No ___ Yes ___ No ___ Yes ___ No ___	
14. Are you a member of a family that received Supplemental Nutrition Assistance Program (SNAP) benefits (Food Stamps) for the 6 months before you were hired? OR, received Food Stamps for at least a 3-month period within the last 5 months But you are no longer receiving them? If YES to either question, enter name of primary recipient _____ And city and state where benefits were received _____		Yes ___ No ___ Yes ___ No ___	
15. Were you referred to an employer by a Vocational Rehabilitation Agency approved by a State? OR, by an Employment Network under the Ticket to Work Program? OR, by the Department of Veterans Affairs?		Yes ___ No ___ Yes ___ No ___ Yes ___ No ___	

16. Are you a member of a family that received TANF assistance for at least the last 18 months before you were hired? Yes ___ No ___ OR , are you a member of a family that received TANF benefits for any 18 months beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within 2 years before you were hired? Yes ___ No ___ OR , did your family stop being eligible for TANF assistance within 2 years before you were hired because a Federal or state law limited the maximum time those payments could be made? Yes ___ No ___ If NO , are you a member of a family that received TANF assistance for any 9 months during the 18-month period before you were hired? Yes ___ No ___ If YES, to any question , enter name of <i>primary recipient</i> _____ and the <i>city and state</i> where benefits were received _____	
17. Were you convicted of a felony or released from prison after a felony conviction during the year before you were hired? Yes ___ No ___ If YES , enter <i>date of conviction</i> _____ SAMPLE and <i>date of release</i> _____ Was this a Federal _____ or a State conviction _____ ? (Check one)	
18. Do you live in a Empowerment Zone or Rural Renewal Community? Yes ___ No ___	
19. Did you receive Supplemental Security Income (SSI) benefits for any month ending within 60 days before you were hired? Yes ___ No ___	
20. Are you an <i>Unemployed Veteran</i> who served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days? Yes ___ No ___ OR were you discharged or released from active duty in the Armed Forces for a service disconnected disability? Yes ___ No ___ If YES , were you discharged or released from active duty at any time during the 5-year ending on the hiring date? Yes ___ No ___ If YES , did you receive unemployment compensation for not less than four weeks during the One-year period ending on the hiring date? Yes ___ No ___	
21. Are you a member of the <i>Disconnected Youth</i> group because you are at least age 16 but under age 25? and Yes ___ No ___ Not regularly attending any secondary, technical, or post-secondary school during the 6-month period before your hiring date? and Yes ___ No ___ Not regularly employed (other than occasionally) during that 6-month period? and Yes ___ No ___ Not employable for lacking a sufficient number of basic skills? Yes ___ No ___	
20. Are you a veteran unemployed for a combined period of at least 6 months (whether or not consecutive) during the year before you were hired? Yes ___ No ___	
21. Are you a veteran unemployed for a combined period of at least 4 weeks but less than 6 months (whether or not consecutive) during the year before you were hired? Yes ___ No ___	
22. Sources used to document eligibility: (Employers/Consultants : List all documentation provided or forthcoming. SWAs : List all documentation used in determining target group eligibility and enter your initials and date when determination was made.)	
I certify that this information is true and correct to the best of my knowledge. I understand that the information above may be subject to verification.	
23(a). Signature: (See instructions for Box 21 for who signs this signature block)	23. (b) Indicate with a ✓ who signed the form: <input type="checkbox"/> Employer, <input type="checkbox"/> Consultant, <input type="checkbox"/> SWA, <input type="checkbox"/> Participating Agency, <input type="checkbox"/> Applicant, or <input type="checkbox"/> Parent/Guardian (if applicant is a minor)
24. Date:	

INSTRUCTIONS FOR COMPLETING THE INDIVIDUAL CHARACTERISTICS FORM (ICF), ETA 9061. This form is used together with IRS Form 8850 to help state workforce agencies (SWAs) determine eligibility for the Work Opportunity Tax Credit (WOTC) Program. The form may be completed, on behalf of the applicant, by: 1) the employer or employer representative, the SWA, a participating agency, or 2) the applicant directly (if a minor, the parent or guardian must sign the form) and signed by the individual completing the form. This form is required to be used, without modification, by all employers (or their representatives) seeking WOTC certification. Every certification request must include an IRS Form 8850 and an ETA Form 9061 or 9062, if a Conditional Certification was issued to the individual pre-certifying the new hire as "eligible" under the requested target group.

Boxes 1 and 2. **SWA.** For agency use only.

Boxes 3-5. **Employer Information.** Enter the name, address including ZIP code, telephone number, and employer Federal ID number (EIN) of the employer requesting the certification for the WOTC. Do not enter information pertaining to the employer's representative, if any.

Boxes 6-11. **Applicant Information.** Enter the applicant's name and social security number as they appear on the applicant's social security card. In Box 8, indicate whether the applicant previously worked for the employer, and if Yes, enter the last date or approximate last date of employment. This information will help the "48-hour" reviewer to, early in the verification process, eliminate requests for former employees and to issue denials to these type of requests, or certifications in the case of "qualifying rehires" during valid "breaks in employment" (see pages III-12 and III-13, Nov. 2002, Third Ed., ETA Handbook 408) during the first year of employment.

Boxes 12-21. **Applicant Characteristics.** Read questions carefully, answer each question, and provide additional information where requested.

Box 22 **Sources to Document Eligibility.** The applicant or employer is requested to provide documentary evidence to substantiate the **YES answers** in Boxes 12 through 21. List or describe the documentary evidence that is attached to the ICF or that will be provided to the SWA. Indicate in parentheses next to each document listed whether it is attached (A) or forthcoming (F). Some examples of acceptable documentary evidence are provided below. A letter from the agency that administers a relevant program may be furnished specifically addressing the question to which the applicant answered YES. For example, if an applicant answers YES to either question in Box 14 and enters the name of the primary recipient and the city and state in which the benefits were received, the applicant could provide a letter from the appropriate Food Stamp agency stating to whom Food Stamp benefits were paid, the months for which they were paid, and the names of the individuals included on the grant for each month. SWAs will use this box to document the sources used when verifying target group eligibility, followed by their initials and the date the determination was completed.

Examples of Documentary Evidence and Collateral Contacts. Employers/Consultants: You may check with your SWA to find out what other sources you can use to prove target group eligibility. (You are encouraged to provide copies of documentation or names of collateral contacts for each question for which you answered YES.)

QUESTION 12³

- Birth Certificate
- Driver's License
- School I.D. Card¹
- Work Permit¹
- Federal/State/Local Gov't I.D.¹
- Copy of Hospital Record of Birth

SAMPLE

QUESTION 17

- Parole Officer's Name or Statement
- Correction Institution Records
- Court Records Extracts

QUESTION 18

- ~~Driver's License~~
- ~~Work Permit~~
- ~~Utility Bills~~
- ~~W-4~~
- ~~Lease Papers~~
- ~~Library Card²~~
- ~~Voter Registration Card~~
- ~~SNAP (Food Stamp) Award Letter~~
- ~~Selective Service Registration Card~~
- To determine if a Designated Community Resident lives in a RRC, visit the site: www.usps.com. Click on Find Zip Code; Enter & Submit Address/Zip Code; Click on Mailing Industry Information; Download and Print the Information, then compare the county of the address to the list in the Jan. 2012 Instructions to IRS 8850.

QUESTION 13

- DD-214 or Discharge Papers
- Reserve Unit Contacts
- Letter Issued Only by the Department of Veterans Affairs (VA) on DVA Letterhead Certifying the Veteran Has a Service-Connected Disability.

QUESTIONS 14 & 16

- TANF/SNAP (Food Stamp) Benefit History
- Signed Statement from Authorized Individual with Specific Description of the Months Benefits Were Received
- Case Number Identifier

QUESTION 15

- Vocational Rehabilitation Agency Contact
- Veterans Administration for Disabled Veterans
- Signed Letter from Authorized Individual in DVA Letter Head with Specific Description of Months Benefits Received
- **For SWAs:** To determine *Ticket Holder* (TH) eligibility, Fax page 1 of Form 8850 to MAXIMUS at 703-683-1051 to verify if applicant: 1) is a TH, and 2) has an Individual Work Plan from an Employment Network.

QUESTION 19

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Benefits

Notes. 1. Where a Federal/State/Local Gov't., School I.D. Card, or Work Permit does not contain age or birth date, another valid document must be obtained to verify an individual's age.

2. Where a Library Card does not contain the holder's address, another document showing the jurisdiction where the RRC is located must be obtained showing the holder's address.

3. ESPL No. 05-98, dated 3/18/98, officially rescinded the authority to use Form I-9 as proof of age and residence. **Therefore, the I-9 is no longer a valid piece of documentary evidence.**

QUESTIONS 20 and 21

- Unemployment Insurance (UI) Claims Records
- UI Wage Records

Box 23. **Signature.** The person who completes the form signs the signature block. Options: (a) Employer or Authorized Representative, (b) SWA staff, (c) Participating Agency staff, or (d) Applicant (If applicant is a minor, the parent or guardian must sign).

Box 24. **Date.** Enter the month, day and year when the form was completed.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Respondent's obligation to reply to these questions is required to obtain and retain benefits per law 104-188. Public reporting burden for this collection of information is estimated to average 20 minutes per response including the time for reading instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden to the U.S. Department of Labor, Employment and Training Administration, Division of National Programs, Tools, and Technical Assistance, 200 Constitution Ave., NW, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project Control No. 1205-0371).

SAMPLE

(Cut along dotted line and keep in your files)

TO: THE JOB APPLICANT OR EMPLOYEE,

Privacy Act Statement: *The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However, the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.*

Individual Characteristics Form (ICF)
Work Opportunity Tax Credit
U.S. Department of Labor
 Employment and Training Administration

1. Numero de Control (Para uso de la Agencia solamente)		SPANISH VERSION		OMB No. 1205-0371 Fecha de Expiración: April 30, 2012	
Información del Solicitante (Esta forma en Español NO es la oficial. Úsela solo para familiarizarse con las preguntas. Luego conteste, firme, y feche la forma en Ingles)				2. Fecha en que la información fue recibida.	
INFORMACION DEL PATRONO					
3. Nombre del Patrono		4. Dirección y Teléfono del Patrono		5. Numero Federal ID (EIN) (Patrono)	
INFORMACION DEL SOLICITANTE					
6. Nombre del Solicitante (Apellido, Primer, Inicial)		7. Numero Seguro Social:		8. Ha trabajado para este patrono antes? Si ____ No ____ Si contesta Si provea la fecha de su ultimo empleo: _____	
REQUISITOS QUE HACEN AL SOLICITANTE ELEGIBLE PARA CERTIFICACION BAJO WOTC					
9. Fecha en que comenzó a Trabajar:		10. Salario:		11. Posicion/Titulo:	
12. Tiene Ud., por lo menos 16 años, pero es menor de 40? Si contesta SI, provea su fecha de nacimiento: _____				Si ____ No ____	
13. Es Ud. un Veterano de las Fuerzas Armadas de los Estados Unidos de América (USA)? Si contesta NO, llene el encasillado 14. Si contesta SI, es Ud. miembro de una familia que recibió beneficios de "Pan y Trabajo" (Aplica a Puerto Rico solamente o que recibió Cupones para Alimentos (Programa Suplementario de Asistencia Nutricional (SNAP) (o sea Food Stamps) por lo menos por 3 mese durante los 15 meses antes de ser empleado? Si contesta SI, provea nombre del beneficiario principal _____ y el nombre de la ciudad/estado donde recibió los beneficios _____ O, es Ud. un Veterano con derecho a beneficios por Incapacidad Física relacionados con su servicio militar? Si contesta SI, fue Ud. dado de baja del servicio activo militar un año antes de ser empleado? O, estuvo Ud. desempleado por un periodo de por lo menos 6 meses durante el año antes de ser empleado?				Si ____ No ____ Si ____ No ____ Si ____ No ____	
14. Es Ud. miembro de una familia que recibió beneficios bajo el Programa Pan y Trabajo (en P.R.) o beneficios bajo el Programa Suplementario de Asistencia Nutricional (SNAP) Cupones de Alimento (o sea Food Stamps) durante los 6 meses antes de ser empleado? O, recibió beneficios bajo el programan SNAP (Cupones de Alimentos) por un periodo de 3 meses durante los 5 meses antes de ser empleado pero ya no recibe estos beneficios? Si contesta SI, a cualquiera de las preguntas, provea el nombre del beneficiario principal _____ y la ciudad/estado donde los beneficios fueron recibidos _____.				Si ____ No ____ Si ____ No ____	
Ciudad/Estado _____					

Individual Characteristics Form (ICF)
Work Opportunity Tax Credit
(Continuacion)

SPANISH VERSION

U.S. Department of Labor
Employment and Training Administration

15. Fue Ud. referido a un patrono por una Agencia de Rehabilitación Vocacional Estatal? O, por un "Employment Network" bajo el programa "Ticket to Work" del Seguro Social? O, por el Departamento de Asuntos del Veterano?	Si ___ No ___ Si ___ No ___ Si ___ No ___
16. Es Ud., miembro de una familia que recibió asistencia TANF por lo menos en los últimos 18 meses antes de ser empleado? O, es Ud. miembro de una familia que recibió asistencia TANF por cualquier periodo de 18 meses comenzando estos beneficios después del 5 de agosto de 1997, y el ultimo periodo de 18 meses que comenzó después del 5 de agosto de 1997, termino 2 años antes de Ud. ser empleado? O, su familia no cualificó para asistencia TANF durante 2 años antes de ser empleado pero una ley Federal o estatal limito el período máximo para Ud. recibir esos pagos? Si contesta No, es Ud., miembro de una familia que recibió asistencia TANF por 9 meses durante los 18 meses antes de ser empleado? Si contesta Si, provea el nombre del <i>beneficiario principal</i> _____ Nombre _____ y el nombre de la ciudad/estado donde los beneficios fueron recibidos _____ Ciudad/Estado _____	Si ___ No ___ Si ___ No ___ Si ___ No ___ Si ___ No ___
17. Fue Ud. convicto por un delito o violación a la ley y puesto en libertad después de la encarcelación durante el año antes de Ud. ser empleado? Si contesta Si, provea la <i>fecha de aprehensión (o fecha de arresto)</i> _____ y la fecha de excarcelación (o cuando fue puesto en libertad) _____. Indique con un (✓) si esta fue una <i>convicción Federal</i> _____ o <i>Estatal</i> _____.	Si ___ No ___
18. Vive Ud. en un "Empowerment Zone" o "Renewal Community?" O, en un "Rural Renewal County (RRC) o Condado?" Si contesta Si, provea el nombre del RRC _____ Nombre del RRC _____	Si ___ No ___ Si ___ No ___
19. Recibió Ud. beneficios de "Supplemental Security Income (SSI)" por cualquier mes que termino 60 días antes de ser empleado?	Si ___ No ___
20. Es Ud., un <i>Veterano Desempleado</i> que estuvo en servicio activo militar (excepto servicio activo para adiestramiento) en las Fuerzas Armadas de los Estados Unidos de America (EUA) por un periodo mayor de 180 días? O, fue dado de baja del servicio activo militar de las Fuerzas Armadas de los EUA debido a una <i>Incapacidad Física</i> como resultado de su <i>servicio militar</i> ? Si contesto Si, fue Ud., dado de baja del servicio activo militar de las Fuerzas Armadas de los EUA en cualquier fecha durante un periodo de 5 años antes de ser empleado? Si contestó Si, recibió Ud., beneficios por desempleo (UI) por un periodo no menor de 4 semanas durante el año inmediatamente antes de ser empleado?	Si ___ No ___ Si ___ No ___ Si ___ No ___ Si ___ No ___
21. Es Ud., miembro del grupo de <i>Jóvenes Desconectados</i> (Disconnected Youth) porque tiene por lo menos 16 años de edad pero menos de 25? Si contestaste Si, no has ido regularmente a ninguna escuela secundaria, técnica, o post-secundaria durante un periodo de 6 meses antes de la fecha en que fuiste empleado? Si contestaste Si, no has sido empleado regularmente (excepto ocasionalmente) durante dicho periodo de 6 meses, Y Si contestaste Si, no eres candidato para ser empleado debido a que no tienes las destrezas laborables necesarias?	Si ___ No ___ Si ___ No ___ Si ___ No ___ Si ___ No ___
20. Es Ud., un Veterano y ha estado desempleado por un período combinado de 6 meses (consecutivos o no)	

durante el año inmediatamente antes de ser empleado?		Si ___ No ___
21. Es Ud., un Veterano y ha estado desempleado por un periodo combinado de, por lo menos, 4 semanas pero menos de 6 meses durante el año inmediatamente antes de ser empleado?		Si ___ No ___
Pagina 2 de 2		(Rev. Aug. 2009)
<div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="width: 60%;"> <p>20. Evidencia para documentar elegibilidad: (Patronos: Favor nombrar los documentos que envió con esta forma o los que enviara luego. SWAs: indiquen los documentos que usaron para determinar si el individuo es elegible o no. Entre sus iniciales y la fecha en que completo esta determinación)</p> </div> <div style="width: 35%; text-align: center; border: 1px solid black; padding: 20px; font-size: 2em; font-weight: bold;">SAMPLE</div> </div> <p>Pregunta 13:</p> <p>Carta Recibida de la Administración de Veteranos (VA) Con Información Sobre <i>Incapacidad Física</i> (Ej. Compensación o Beneficios) Debido Al Servicio Militar. Debe tener el membrete oficial de VA y estar debidamente firmada por personal oficial.</p> <p>Patrono o Veterano:</p> <p>Documentación necesaria para corroborar su estado como <i>Veterano Desempleado</i> durante el periodo requerido:</p> <p>Preguntas 20 y 21.</p> <p>Expedientes de Reclamo Beneficios por Desempleo (UI)</p> <p>Expedientes de Salario, Unidad de Beneficios por Desempleo (UI)</p>		
Certifico que esta información es verídica y correcta y entiendo que dicha información esta sujeta a verificación.		
21. Firma: (Vea instrucciones en Ingles para saber quien firma este encasillado)	21. (b) Indique con un ✓ quien firmo la forma: <input type="checkbox"/> Patrono, <input type="checkbox"/> Representante, <input type="checkbox"/> SWA, <input type="checkbox"/> Agencia Participante, <input type="checkbox"/> Solicitante, o <input type="checkbox"/> Padre/Guardián (si el solicitante es menor de edad)	22. Fecha:



U.S. Department of Labor
Employment and Training Administration

ATTACHMENT C
OMB No. 1205-0371
Expiration Date: April 30, 2012

Conditional Certification
Work Opportunity Tax Credit

EMPLOYERS! ➤ This form must be accompanied by IRS Form 8850. ➤ If you do not have IRS Form 8850, call 202-693-2786 for a copy or download it from www.irs.gov ➤ Be sure to complete Part II of this form and IRS 8850, sign and date both forms BEFORE sending them to the State Workforce Agency (SWA) within 28 days after the new hire's employment-start date. IRS granted a "Relief Filing Period" that applies to veterans' applications. See additional information in the "Note to Employer" section below.					
1. INITIATING AGENCY CODE (For Agency Use Only) CODE: _____		2. CONTROL NO. (For Agency Use Only) "✓" One ____ Participating Agency ____ SWA		3. TYPE OF CONDITIONAL CERTIFICATION a. <input type="checkbox"/> Original (For Summer Youth ONLY, "✓" One) a. <input type="checkbox"/> Original b. <input type="checkbox"/> Revalidation	
4. FOR EX-FELON TARGET GROUP ONLY a. Conviction Date: _____ c. Correction's ID No. _____ b. Release Date: _____				5. DATE COMPLETED (MM/DD/YY) _____	
6. STATE WORKFORCE AGENCY's NAME/ADDRESS		7. SIGNATURE (Authorized Official)		8. TELEPHONE No.	
SAMPLE					
PART I. APPLICANT'S INFORMATION AND CONDITIONAL CERTIFICATION (CC):					
9. NAME OF APPLICANT (Last, First, Middle)		10. SOCIAL SECURITY No.		11. ENTER TARGET GROUP CODE OTHER THAN "Veteran": _____	
12. ADDRESS (Street, City, State, Zip Code) & Telephone No.		13a. VETERAN TARGET GROUP CODES ("✓" One): <input type="checkbox"/> 2Ba. Qualified Veteran receiving SNAP benefits <input type="checkbox"/> 2Bb. Disabled Veteran <input type="checkbox"/> 2Bc. Disabled Veteran unemployed for 6 months <input type="checkbox"/> 2Bd. Veteran unemployed for 4 weeks but less than 6 months <input type="checkbox"/> 2Be. Veteran unemployed for 6 months			
13b. TARGET GROUP CODE (Cont): _____ <input type="checkbox"/> Unemployed Veteran <input type="checkbox"/> Disconnected Youth		14. APPLICANT SIGNATURE:			
NOTE TO EMPLOYER:					
15. The above named individual may be eligible for certification under the Work Opportunity Tax Credit. If individual is not employed before the date in the box below (Mo., Day, Yr.), this eligibility determination is subject to review. <div style="border: 1px solid black; width: 150px; height: 20px; margin: 10px 0;"></div>		In the event you hire this person, you should request the certification necessary for you to claim a Work Opportunity Tax Credit (WOTC). Simply complete and sign the Employer Declaration below, submit to the SWA together with IRS Form 8850, not later than June 19, 2012 for veterans that began employment for you on or after November 22, 2011 and before May 22, 2012. For veterans who began employment for you after May 22, 2012 and before January 1, 2013, submit to the SWA not later than 28 days after the applicant started work. The WOTC Employer Certification will be sent to you, if all statutory requirements have been met.			
PART II. EMPLOYER DECLARATION: I, hereby, declare that the above named person is or will be employed by:					
16. NAME OF FIRM AND ADDRESS:		17. POSITION/JOB TITLE:		18. EMPLOYMENT-START DATE:	
				19. STARTING WAGE: \$ _____ per hr	
ATTN SWA: Please send a WOTC Certification for this employee. The pre-certification is for the purpose of requesting Certification to obtain the WOTC under Sec. 51 and 52 of the Internal Revenue Code. Employers are advised that such credit will cease immediately upon notification of any subsequent invalidation/revocation. Employers are further advised that if the certification herein requested is for a member of the SUMMER YOUTH target group, the tax credit for which he/she may be eligible is subject to the limits described at Sec. 51 (d)(7) of the Internal Revenue Code.					
NOTE: Falsification of data on this form is a FEDERAL CRIME in violation of 18 USC 1001. Falsification of work or concealment of information is PUNISHABLE by a fine or imprisonment.					
20. EMPLOYER'S NAME:		21. EMPLOYER'S SIGNATURE:		22. DATE: ((MM/DD/YY)	

CONDITIONAL CERTIFICATION (CC) ETA FORM 9062. When a SWA or Participating Agency (PA) determines that a job-ready applicant is, tentatively, ELIGIBLE as a member of a target group under WOTC, it shall use this required form, without modification, to show that an eligibility determination was made for this person. **Note.** The CC serves as an official record of the pre-certification, alerts prospective employers to the availability of the tax credit if this veteran is hired, and provides a means for employers to request a WOTC certification for this person.

INSTRUCTIONS FOR COMPLETING THE "CONDITIONAL CERTIFICATION" FORM. (Boxes 1-15 are for Participating Agency (PA) and SWA use only)

- Box 1:** Initiating Agency Code. If the CC was issued by a Participating Agency, enter its code. SWAs assign codes to designate each PA and indicate the initiating source for the eligibility determination process. If the eligibility determination was performed by the SWA, enter the SWA code, if available. Indicate with a check mark "✓" if initiating agency is a PA or SWA.
- Box 2:** Control Number. Usually the PA determines the control number (CN). However, SWAs may, for internal control purposes, develop their own CN system. It may be a case number or some other appropriate designation (e.g., alpha-numeric designation), which permits easy filing, certification and retrieval of forms. Enter corresponding CN and indicate with a check mark "✓" whether the source is a PA or a SWA.
- Box 3:** Type of Conditional Certification. This system distinguishes between "Original," if the individual is being processed for the first time, or "Revalidation," if the eligibility process was performed within the previous 12-month period, (e.g., 45 days for the Summer Youth target group only). Otherwise, the Conditional Certification is counted as "Original." Indicate with a check mark "✓" whether the eligibility determination is "Original" or "Revalidation."
- Box 4:** For Ex-Felon Target Group Only. For items a - c, enter the corresponding information. This information will help you in verifying target group eligibility
- SAMPLE**
- Box 5:** Date Completed. Enter the month, day, year in which the eligibility determination was completed.
- Box 6:** SWA's Name and Address. If known, enter or stamp the name and address, including zip code, of the SWA responsible for Certification requests for the employer indicated in Box 16. Leave blank if SWA's name and address is unknown.
- Box 7:** Signature. Enter signature of the authorized conditionally-certifying official.
- Box 8:** Telephone No. Enter corresponding SWA or PA area code, telephone number and extension, if available.

PART I. APPLICANT'S INFORMATION AND CONDITIONAL CERTIFICATION (CC):

- Box 9:** Name of Individual. Enter the individual's/applicant's full name (i.e., last name, first name and middle initial).
- Box 10:** Social Security Number. Enter the individual's/applicant's Social Security Number.
- Box 11:** Target Group Code. Enter the code or name of the pre-certified non-veteran group.
- Box 12:** Address/Telephone No. Enter the individual's/applicant's home address, including apartment number and zip code. After address, enter individual's telephone number, including area code.
- Box 13a:** Target Group Code. The 1996 original target group designation for a Qualified Veteran is "B." To facilitate the identification of the different veteran categories created by the VOW to Hire Heroes Act of 2011 (P.L. 112-56), ETA is using the same alpha-numeric designations used to collect the number of certifications issued for the amended veteran categories in ETA Form 9058 – Report 1. To ensure a simple, uniform and consistent certification system which can be used by the SWAs nationwide each new veteran category is preceded by "B" and followed by the alpha-numeric code used in ETA Form 9058. All the SWAs need to do is enter a check mark "✓" in front of the veteran group certified.
- Box 13b:** Target Group Code (Continued). Enter a check mark "✓" to indicate if individual is being pre-certified as "Unemployed Veteran" or "Disconnected Youth" meeting the requirements introduced by the Recovery Act of 2009, P.L. 111-5.
- Box 14:** Signature. Get applicant's signature. If a minor, parent or guardian must sign here.
- Box 15:** CC Validity Period. (This box is to be completed by the SWA or PA). Enter the month/day/year when the CC expires (e.g., 45 days for Summer Youth)

Part II. EMPLOYER DECLARATION:

- Box 16:** Name of Firm. Enter full name of the employing firm (the firm where the employee will actually work).
- Box 17:** Position/Job Title. Enter the position or job title the employee will hold.
- Box 18:** Employment-Start Date. Enter the date the employee began or will begin work for the employing firm.
- Box 19:** Starting Wage. Enter the wage or salary which the employee will be paid. If not known, enter an estimated wage.
- Box 20:** Employer's Name and Signature. Enter your name as the hiring employer.
- Box 21:** Employer's Signature. Affix your electronic or ink signature here.
- Box 22:** Date. Enter month, day and year when you signed this form.

SAMPLE

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Respondents' obligation to reply to these questions is required for obtaining the tax credit per P.L. 104-188. Public reporting burden for this collection of information is estimated to average .33 minutes per response, including the time for reading instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the U.S. Department of Labor, Employment and Training Administration, Division of National Programs, Tools, and Technical Assistance, 200 Constitution Ave., NW, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0371)

Privacy Act Statement: *The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.*



**Employer Certification
Work Opportunity Tax Credit
(OPTIONAL FORMAT)**

1. NAME/ADDRESS OF CERTIFYING AGENCY AND TELEPHONE NO.	2. CONTROL NO. (For Agency Use Only)	3. DATE COMPLETED:
	4. INITIATING AGENCY CODE (For Agency Use Only)	

PART A. EMPLOYER

5. NAME/ADDRESS OF FIRM/TELEPHONE NO.	6. EMPLOYER TAX EIN # SAMPLE	7. REPRESENTATIVE'S NAME, TITLE & ADDRESS.
---------------------------------------	--	--

PART B. EMPLOYEE

8. SOCIAL SECURITY NO.	9. EMPLOYMENT START DATE (Mo/ Day/Yr.)
10. NAME AND ADDRESS OF EMPLOYEE:	12. VETERAN TARGET GROUP CODES: ("✓" those that apply) <input type="checkbox"/> 2Ba. Qualified Veteran receiving SNAP benefits <input type="checkbox"/> 2Bb. Disabled Veteran <input type="checkbox"/> 2Bc. Disabled Veteran unemployed for 6 months <input type="checkbox"/> 2Bd. Veteran unemployed for 4 weeks but less than 6 months <input type="checkbox"/> 2Be. Veteran unemployed for 6 months <input type="checkbox"/> Unemployed Veteran <input type="checkbox"/> Disconnected Youth
11. NON-VETERAN TARGET GROUP CODE AND NAME:	

PART C. CERTIFICATION

I HEREBY CERTIFY that the individual named in Part B meets the eligibility criteria of Sec. 51 of the Internal Revenue Code.

13. NAME OF CERTIFYING OFFICER (Print or Type)	14. SIGNATURE. (Certifying Officer)	15. DATE ISSUED:
--	-------------------------------------	------------------

Comments to Employers:

* The VOW to Hire Heroes Act of 2011 (P.L. 112-56) extends and amends the current veteran group, creates two additional categories of unemployed veterans in Section 51 of the Internal Revenue Code, and makes the WOTC available to qualified tax-exempt organizations in Section 52. The VOW Act grants the WOTC to employers that hire certain qualified veterans who begin employment on or after November 22, 2011 and before January 1, 2013. This Act did not extend the non-veteran WOTC categories, which expired on December 31, 2011.

For additional information on filing certification requests to the State Workforce Agencies (SWA) and veterans' eligibility requirements visit WOTC's national website at www.doleta.gov/wotc to obtain an e-copy of TEGL No. xx-xx, a brochure on "WOTC and Veterans" and a Fact Sheet that provides an overview of the provisions in the VOW Act. Employers are also encouraged to visit IRS's website at www.irs.gov to obtain e-copies of IRS's Notice 2012-13 and the January 2012 IRS Form 8850 and Instructions.

EMPLOYERS: Before you can claim the WOTC, your new hire(s) must work the required number of hours to meet the Minimum Employment or Retention Period. Visit IRS's website at: www.irs.gov for additional information on this and other requirements.

Note. More information is available in the instructions for IRS Form 8850 & 5884, *Work Opportunity Credit*, for tax year 2012.

NOTE: Falsification of data to obtain this Certification is a FEDERAL CRIME in violation of 18 USC 1001. Falsification of work or concealment of information is PUNISHABLE by a fine or imprisonment

INSTRUCTIONS FOR COMPLETING AND ISSUING THE CERTIFICATION FORM (CF) ETA 9063.

Documentary evidence of eligibility and/or collateral contacts is required to issue a WOTC Certification. Information on the Certification substantiates the employer is entitled to claim a tax credit against the first-year wages paid to the new hire.

Note: SWAs must inform each employer who receives a WOTC Certification of the required *Minimum Employment Period* as stated in the "Comment Box" of the Certification. **However, enforcement of this requirement is, strictly, an IRS responsibility.**

Boxes to be completed on the Certification:

- Box 1:** **Name and Address.** Identify the SWA and include the appropriate address and zip code.
- Box 2:** **Control Number.** Enter the control number developed by the SWA for its own use.
- Box 3:** **Date Completed.** Enter the month, day and year when the form was completed.
- Box 4:** **Initiating Agency Code.** Enter agency code developed by SWA for its own use.
- Box 5:** **Name and Address of Firm.** Enter employer's name and address including zip code.
- Box 6:** **Employer Tax EIN Number.** Enter employer's taxpayer identification.
- Box 7:** **Representative's Name, Title and Address.** Enter the name, title and office location of the individual authorized by the employer to act on the employer's behalf.
- Box 8:** **Social Security No.** Enter the employee's social security number.
- Box 9:** **Employment Start Date.** Enter the month, day and year when the employee began to work for the employing firm.
- Box 10:** **Name and Address of Employee.** Enter the employee's full name (i.e., last name, first and initial) and address including zip code and telephone number, if available.
- Box 11:** **Targeted Groups.** Enter SWA Code and target group name for the certified non-veteran group.
- Box 12:** **Targeted Groups.** Indicate, with a check mark ("✓"), which veteran group is being certified.
- Box 13:** **Certifying Official.** Key in/print full name and title of authorized certifying official.
- Box 14:** **Signature.** Enter authorized, certifying official's signature.
- Box 15:** **Date.** Enter month, day and year when the Certification is issued by the certifying official.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Respondent's obligation to reply to these requirements is mandatory under P.L. 104-188. Public reporting burden for this collection of information is estimated to average .33 minutes per response, including the time for reading instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Division of National Programs, Tools, and Technical Assistance, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project Control No. 1205-0371).

=====
Privacy Act Statement: *The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.*



Work Opportunity Tax Credit (For SWAs' Internal Use Only)

U. S. Department of Labor
Employment & Training Administration

OMB No. 1205-0371
Expiration Date: April 30, 2012
2. SOCIAL SECURITY NO.

1. NAME OF INDIVIDUAL

Agency Declaration of Verification Results Worksheet

3. EMPLOYER'S NAME, TELEPHONE NO., AND ADDRESS:

THE SECTION BELOW IS TO BE COMPLETED BY THE SWA CERTIFYING AGENCY ONLY.

4. CERTIFYING AGENCY: (Check one)

5. DATE CERTIFIED:

CC Issued By: ___ Participating Agency or ___ SWA

SAMPLE

6. SOURCES USED TO DOCUMENT ELIGIBILITY:

7. AUDIT SAMPLE RESULTS (Complete ONLY if selected as part of RANDOM SAMPLE in quarterly audit)

- a. ☐ I have reviewed/contacted the source(s) indicated in box 6 above and have confirmed that the certified individual is ELIGIBLE.
- b. ☐ I have reviewed/contacted the source(s) indicated in box 6 above and have confirmed that the certified individual is INELIGIBLE for the following reason(s):
- c. ☐ I have not been able to establish that the certified individual is INELIGIBLE because:

NOTE: Falsification of data on this form is a FEDERAL CRIME in violation of 18 USC 1001. Falsification of work or concealment of information is PUNISHABLE by a FINE or IMPRISONMENT.

8. NAME AND TITLE OF REVIEWER (Type or Print):

9. SIGNATURE (Certifying Officer)

10. DATE:

Persons are not required to respond to this collection of information unless it displays a valid OMB Control Number. Respondent's obligation to reply to these requirements is mandatory by P.L. 104-188. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reading instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding the burden estimate or any other aspect of this collection of information including suggestions for reducing this burden to the U.S. Department of Labor, Division of National Programs, Tools, and Technical Assistance, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0371).

Privacy Act Statement: The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.

Instructions for Completing the Agency Declaration of Verification Results (ADVR) Worksheet, ETA FORM 9065.

Background: The Omnibus Budget Reconciliation Act of 1990, P. L. 101-508, § 11405(c), extended indefinitely the \$5 million set-aside (cited below) for testing whether individuals certified as members of WOTC targeted groups are eligible for certification (including the use of statistical sampling techniques). As long as there is a WOTC appropriation, this requirement continues in force. These provisions apply in full force to the certification process under the consolidated WOTC Program. Section 261(f)(2) of the Economic Recovery Tax act of 1981 (P. L. 97-34), as amended, states that:

"(A) \$5,000,000, shall be used to test whether individuals certified as members of targeted groups under section 51 of such Code [Internal Revenue] are eligible for such certification (including the use of statistical sampling techniques), and (B) the remainder shall be distributed under performance standards prescribed by the Secretary of Labor."

Note. Verification activities require testing the validity of all Certifications issued by the SWAs, including the Conditional Certifications issued by Participating Agencies (PAs) and other documentation, which results in Certifications. Quality reviews and audits are both parts of the certification process. A General Accounting Office (GAO) report recommended that verification activities be done by "other than the person who originally processed..." the Individual Characteristics [ETA Form 9061] or the Conditional Certification [ETA Form 9062] forms.

DEFINITIONS:

1. **Quality Reviews** - the reviews conducted at specific points in the eligibility determination/certification process of forms and other documentation including the Certification recorded.
2. **Audit** - the post-issuance examination of a the Certifications issued.

SAMPLE

INSTRUCTIONS FOR COMPLETING THE AGENCY DECLARATION OF VERIFICATION RESULTS (ADVR) FORM.

- Box 1. Name of Individual.** Enter the full name (last, first and middle initial) of the certified target group member/employee.
- Box 2. Social Security No.** Enter the employee's social security number.
- Box 3. Employer Name, Telephone No., & Address.** Enter employer's name and address including zip code and telephone number.
- Box 4. Certifying Agency.** Enter name of SWA issuing the Certification. Indicate with a check mark "✓" whether the CC was issued by a Participating Agency or a SWA.
- Box 5. Date Certified.** Enter month, day and year when the Certification was issued.
- Box 6. Documentary Sources.** List and/or describe the documentary evidence or sources of collateral contacts that are attached to the Certification request (IRS 8850) and/or Individual Characteristics Form.
- Box 7. Audit Sample Results.** Indicate with a check mark "✓" if individual is "eligible," "ineligible" or "eligibility cannot be determined" and follow the instructions below.

- a. If review of documentation reveals that the certified individual is eligible, enter a check mark "✓."
- b. If review of documentation reveals that the certified individual is ineligible, explain why, and for Conditional Certifications (CCs) prepare and send the following notices:

Notification of Invalidation (NOI) - to the applicant, the SWA, PA staff, and employer/consultant. The NOI notifies the employer/consultant to whom applicant was referred that the CC (ETA form 9062) is invalid because of missing or incorrect information/items and that without such information a Certification cannot be issued.

Notice of Revocation (NOR) - prepare and send to employer/consultant an NOR explaining the reasons for revocation and send a copy to the Regional Office and IRS in your state since employer eligibility for the tax credit does not cease until the date that the employer is, officially, notified in writing that the Certification (ETA Form 9063) has been invalidated; thereby, revoked.

- c. If review of documentation reveals that the SWA has not been able to establish eligibility explain the reason.

- Box 8. Name and Title of Reviewer.** Enter full name and title of authorized staff conducting audit review.
- Box 9. Signature.** Enter signature of authorized reviewer conducting audit.
- Box 10. Date.** Enter month, day and year when audit was conducted.



Certification Workload and Characteristics of Certified Individuals
Work Opportunity Tax Credit - Report No. 1

ATTACHMENT C

U.S. Department of Labor
Employment and Training Administration

State:	Quarter Ending:	Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondents' obligation to reply to these reporting requirements is mandatory (P.L. 104-188). Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the U.S. Department of Labor, Employment and Training Administration, Division of National Programs, Tools, and Technical Assistance, 200 Constitution Ave., NW, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project 1205-0371).	OMB No. 1205-0371 Expiration Date: April 30, 2012
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PART I. CERTIFICATION WORKLOAD

CERTIFICATION REQUESTS (System Inputs)				CERTIFICATION REQUESTS (System Outputs)			
A) Incomplete Requests	B) Requests Needing Action	C) New Requests	D) Requests Processed	E) Certified Requests	F) Denied Requests	G) Incomplete Requests	H) Requests Needing Action

PART II. CHARACTERISTICS OF CERTIFIED INDIVIDUALS

I) By WOTC Target Group	(a) No. of CCs Resulting in Certifications	(b) No. Certified Individuals	J) By Occupation	(a) No. Certified Individuals	J) By Occupation (Cont.)	(a) No. Certified Individuals	K) By Starting Hourly Wage	(a) No. Certified Individuals
1. IV-A TANF Recipient			Name-Code		Name-Code		1. Under Federal Minimum Wage	
2Ba. Veteran Receiving SNAP benefits (V)			1. Management Occupations - 11		12. Protective Services - 33		2. \$7.25 - \$8.25	
2Bb. Disabled Veteran (DV)			2. Business & Financial Operations - 13		13. Food Preparation & Serving - 3		3. \$8.26 - \$8.99	
2Bc. DV unemployed for 6 months					14. Bldg. & Grounds Cleaning & Maintenance - 37			
2Bd. V unemployed for 4 weeks			3. Computer & Mathematical - 15		15. Sales & Related Occupations - 41		4. \$9.00 - \$9.99	
2Be. V unemployed for 6 months			4. Architecture & Engineering - 17		16. Office/Administrative Support - 43		5. \$10.00 - Higher	
3. Ex-Felon			5. Life, Physical & Social Sciences - 19		17. Farming, Fishing & Forestry - 45		6. TOTAL (For Qtr.)	
4. Designated Community Resident			6. Community & Social Services - 21		18. Construction & Extraction - 47			
5a. Voc. Rehab Referral			7. Legal Occupations - 23		19. Installation/Maintenance/Repair - 49			
5b. Ticket Holder			8. Education, Training, & Library - 25		20. Production Occupations - 51			
6. Summer-Youth			9. Arts, Design, Entertainment, Sports/Media Occupations - 27		21. Transportation & Material Moving Production Occupations - 53			
6. SNAP Recipient			10. Healthcare Practitioner & Technical - 29		22. Military Specific Occupations - 55			
7. SSI Recipient			11. Healthcare Support Occupations - 31					
8. Unemployed-veteran								
9. Disconnected-Youth								
8. Long-term TANF Recipient								
9. TOTAL (For Qtr.)								

Instructions for Preparing ETA Form 9058, Report 1 – “Certification Workload and Characteristics of Certified Individuals,” Work Opportunity Tax Credit Report

REVISED INSTRUCTIONS

Introduction. Part I. of this report clarifies and simplifies data reported on certifications issued and provides state workforce agencies’ (SWAs) workload during each reporting quarter. Part II. continues to collect data on selected characteristics of certified individuals. Boxes 2a through 2e were added to collect data from the expanded Veteran groups and provisions introduced by the VOW to Hire Heroes Act of 2011 (P.L. 112-56). Box 6. Summer Youth was deleted because the legislative authority for HUD’s urban and USDA’s rural Empowerment Zones (EZs) expired on December 31, 2011 and the statutory definition for this group requires that the youth must reside in an EZ. Box 7, SNAP Recipient became number 6 and Boxes 7-13 were renumbered as follows: Box 7. SSI Recipient, Box 8. Long-Term TANF, Box 9. TOTAL (For QTR.) and Box 10. TOTAL (YTD)

Explanation of VOW to Hire Heroes Act of 2011 Changes. Since 1996, SWAs use the “B” alpha statutory classification for the Veteran group for verification of and issuing certifications to the “qualified veteran” group. To distinguish among the current and new veteran categories and provide the SWAs with a uniform system to report the number of certifications issued by each new group, the “B” classification has been added and is followed by alpha-numeric identifiers for Veteran Boxes No. 2a through 2e as follows:

Box 2Ba. Added (V) after “Veteran receiving SNAP benefits,”
Box 2Bb. Added (DV) after “Disabled Veteran”
Added Box 2Bc. and titled it “DV unemployed for 6 months”
Added Box 2Bd. and titled it “V unemployed for 4 weeks”
Added Box 2Be. and titled it “V unemployed for 6 months”

SAMPLE

The two WOTC ARRA target groups – Unemployed Veterans and Disconnected Youth – authorized by the American Recovery and Reinvestment Act (P.L. 111-5) expired on December 31, 2010. These target groups (formerly Boxes 10 and 11) have been removed.

Background. The purpose of ETA Form 9058 (Updated February 2012) is to provide SWAs with a standardized e-reporting format, which accurately reflects program activity levels and outcomes under the Work Opportunity Tax Credit (WOTC). It is important for SWAs to maintain programmatic reporting procedures that account for each tax request (IRS Form 8850) received and its subsequent outcome (issuance of a tax certification or denial). A properly completed ETA Form 9058 accurately reflects program use and the level of any programmatic backlog that may exist. To ensure that the WOTC Program can be accurately evaluated at the national level, it is critical that all SWAs report in a standardized manner using the web-based Enterprise Business Service System (EBSS) Tax Credit Reporting System (TCRS).

INSTRUCTIONS FOR COMPLETING THIS FORM:

State. Enter the name of the state submitting ETA Form 9058.

Quarter Ending Period. Enter ending date of the quarter for the reported program data.

Part I. “Certification Workload.” SWAs must identify from Part I, Item F on the previous reporting quarter’s ETA Form 9058 the number of requests (IRS Form 8850s) determined to be incomplete or Needing Action, as defined below:

(A) **Number of Requests Incomplete.** Enter the total number of requests (IRS Form 8850s) received by the SWA prior to the beginning of the current report period, but for which no applicant eligibility determination action (excluding the 48-hour review) was taken. This total is to be entered into Part I, Item (A) of ETA Form 9058.

(B) **Number of Requests Needing Action.** Enter the total number of requests (IRS Form 8850s) received by the SWA prior to the beginning of the current report, but for which no review and total is to be entered into Part I, Item (B) of recently revised ETA Form 9058.

(C) **New Requests.** Enter the total number of requests (IRS Form 8850s) received by the SWA during the current reporting quarter. Some states may have received requests (IRS Form 8880s) that were not previously recorded and/or reported on any prior quarterly report ETA 9058 for various reasons. It is important for the SWA to report all requests (IRS Form 8850s) received. Therefore, any request received outside of the current reporting quarter, which has not previously been reported, should be included with the number of requests received during the current reporting period. That total should be entered as the number of “New Requests”. This total is to be entered into Part I, Item (C) of ETA Form 9058.

(D) **Total Requests to Be Processed.** Enter the sum of Items A, B & C. This total represents the number of requests (IRS Form 8850s) received by the SWA, which are available to be processed. This total is to be entered under Part I, Item (D) of ETA Form 9058. **Note.** A denial is a request (IRS Form 8850) determined by the SWA to be ineligible for the WOTC.

(E) **Requests Certified.** Enter the total number of WOTC certifications issued during the current report period.

(F) **Requests Denied.** Enter the total number of requests (IRS Form 8850s) denied by the SWA during the current report period.

Note. A denial is a request (IRS Form 8850) determined by the SWA to be ineligible for the WOTC.

(G) **Number of Requests Incomplete.** Enter the total number of requests (IRS Form 8850s) received and reviewed by the SWA, but which the SWA could neither approve nor deny due to such things as, but not limited to, the need for additional eligibility documentation for which the SWA has made a formal request to the employer, authorized tax consultant, or other third party entity, ETA Form 9061 not submitted, etc. **Note.** This number will also be entered in Part 1, Item A. of the subsequent quarterly report ETA Form 9058.

(H) **Number of Requests Needing Action.** Enter the number of requests (IRS Form 8850s) received by the SWA but for which no review and/or action has yet been taken to determine applicant eligibility.

Note. This value will also be entered in Part I, Item B. of the subsequent quarterly report ETA Form 9058. Part I, Item H is the sum of Item D, minus Item E, minus Item F, minus Item G.

Part I. Completion Formula:

$(A + B + C) = D$ and

$D - (E + F + G) = H$ Same as: Items $(A+B+C) = D$ and $(D-E-F-G) = H$

SAMPLE

Part II. "Characteristics of Certified Individuals by Tax Credit." This part is divided into three sections (Section I, Section J, and Section K).

Section I reflects the number of requests (IRS Form 8850s) certified by the SWA during the current report period **by WOTC target groups**. Section J reflects the number of requests (IRS Form 8850s) certified by the SWA during the current report period **by occupation**. Section K reflects the number of requests (IRS Form 8850s) certified by the SWA during the current report period **by starting hourly wage**.

Section I.

Section I, Column (a). Enter the total number of certifications, issued by the SWAs, by target group, during the current report period, which resulted from the issuance of a conditional certification i.e., ETA Form 9062.

Section I, Column (b). Enter the total number of WOTC certifications issued by the SWAs, by target group, during the current report period.

Section I, Line #1. Enter the total number of WOTC certifications issued by the SWA during the current report period, for the IV-A TANF group.

Section I, Line #2Ba. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Veterans receiving SNAP benefits.

Section I, Line #2Bb. Enter the total number of WOTC certifications issued by the SWA during the current report period, for "Disabled Veterans" receiving compensation for a service-connected disability.

Section I, Line #2Bc. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Disabled Veterans unemployed for 6 months.

Section I, Line #2Bd. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Veterans unemployed for at least 4 weeks but less than 6 months.

Section I, Line #2Be. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Veterans unemployed for at least 6 months.

Section I, Line #3. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Ex-felons

Section I, Line #4. P.L. 110-28 changed the name of the High-Risk Youth to "Designated Community Residents (DCRs)." Enter the total number of WOTC certifications issued by the SWA during the current report period, for DCRs.

Section I, Line #5a. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Vocational Rehabilitation Referrals.

Section I, Line #5b. Enter the total number of WOTC certifications issued by the SWA during the current report period, for "ticket holders." (e.g., SSDI, or Voc. Rehab).

Section I, Line #7. Enter the total number of WOTC certifications issued by the SWA during the current report period, for Summer Youth.

Section I, Line #6. Enter the total number of WOTC certifications issued by the SWA during the current report period, for SNAP (formerly Food Stamps) recipients.

Section I, Line #7. Enter the total number of WOTC certifications issued by the SWA during the current report period, for SSI recipients.

Section I, Line #10. Enter the total number of WOTC certifications issued by the SWA during the current report period, for "Unemployed Veterans" according to P.L. 111-5.

Section I, Line #11. Enter the total number of WOTC certifications issued by the SWA during the current report period, for "Disconnected Youth" according to P.L. 111-5.

Section I, Line #8. Enter the total number of WOTC certifications issued by the SWA during the current report period, for "Long-term TANF" Recipients.

Section I, Line #9. Enter the sums of columns (a) and (b). **Note.** The total (For Qtr.) of Part II, Section I, Line #9, columns (a) & (b) should equal the total entered in Part I, Item E, Requests Certified.

Section I, Line #10. Enter the cumulative federal program Year-to-Date (YTD) totals of columns (a) and (b). **Note.** The first quarterly report of the federal program year (October 1-December 31), the totals of Section I, Line #9 and Line #10 should be the same.

Section J.

Section J, Column (a). Enter the total number of WOTC Certifications issued by the SWA during the current report period, by occupation. **Note:** The total for Section J, Column (a), Line #26 is the sum of the column and must equal the total for Section I, Column (a) & (b) Line # 9.

The occupational data reported in Boxes 1-22 are derived from the job titles reported on ETA Forms 9061 or 9062. To prepare this report, SWAs must use the O*NET job families of occupations and their two-digit corresponding codes as illustrated in the following table.

O*NET SOC JOB FAMILIES			
Name	Code	Name	Code
Management Occupations	11	Food Preparation & Serving Related	35
Business & Financial Operations	13	Bldg. & Grounds Cleaning & Maintenance	37
Computer & Mathematical Occupations	15	Personal Care & Service	39
Architecture & Engineering	17	Sales & Related Occupations	41
Life, Physical & Social Sciences	19	Office & Administrative Support	43
Community & Social Services	21	Farming, Fishing, & Forestry	45
Legal Occupations	23	Construction & Extraction	47
Education, Training, & Library	25	Installation, Maintenance & Repair	49
Arts, Design, Entertainment, Sports and Media Occupations	27	Production Occupations	51
Healthcare Practitioner & Technical	29	Transportation & Material Moving	53
Healthcare Support Occupations	31	Military Specific Occupations	55
Protective Service Occupations	33		

SAMPLE

Section K

Section K, Column (a). Enter the total number of WOTC certifications issued by the SWA during the current report period, by starting hourly wage¹. **Note.** The total for Section K, Column (a), Line #6 is the sum of the column for that quarter and must equal the total for Section I, column (b), Line #9.

Convert as follows:

<u>Unit of Time</u>	<u>Calculated Hourly Wage</u>
Day	Amount divided by 8
Week	Amount divided by 40
Month	Amount divided by 172

- 23. Name and Title of Responsible Official.** Enter the name and title of the authorized signatory official.
- 24. Signature.** Enter the signature of the authorized signatory official.
- 25. Date.** Enter the date of the authorized signatory official's signature.
- 26. Total (for qtr).** Enter the total number of WOTC Certifications issued by the SWA during the current report period, by occupation. **Note.** The total for Section J, Column (a), Line #26 is the sum of the column for this quarter and must equal the total for Section I, column (b), Line #9.

¹ According to the Federal Labor Standards Act (FLSA), the federal minimum salary is \$7.25 per hour effective July 24, 2009. **Source:** Office of Employment Standards Administration, Division of Wage and Hour at the U.S. Department of Labor.

Part IV. Items of General Interest

Electronic Submission of Form 8850

Announcement 2002-44

Form 8850

Employers submit Form 8850, *Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits*, to State Employment Security Agencies (SESAs) as part of the process of obtaining those tax credits. The Internal Revenue Service will allow the electronic submission of Forms 8850 with SESAs that choose to establish a system to electronically receive this form. In general, the electronic system must meet the requirements described in paragraphs (1) through (6) below.

For purposes of this announcement, "employer" refers to an employer required to submit a Form 8850 or an authorized employer representative.

Requirements

(1) *In General.* The electronic system must ensure that the information received is the information sent, and it must document all occasions of access that result in the submission of a Form 8850. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the persons signing the Form 8850, accessing the system, and submitting the Form 8850 are the job applicant and employer identified in the form.

(2) *Same Information as Paper Form 8850.* The electronic submission must provide the SESA with exactly the same information as the paper Form 8850.

(3) *Jurat and Signature Requirements.* The electronic submission must be signed by the job applicant and the employer under penalties of perjury.

(A) *Jurat.* The jurats (perjury statements) must contain the language that appears on the paper Form 8850 for the job applicant and the employer, respectively. The electronic system must inform the job applicant and the employer that they must make the declaration contained in the applicable jurat and that the decla-

ration is made by signing the Form 8850. The instructions and the language of each jurat must immediately follow the information provided by the job applicant or the employer, as applicable, and must immediately precede that person's electronic signature.

(B) *Electronic Signatures.* The electronic signatures must (1) identify the job applicant whose name is on the electronic Form 8850 and the employer submitting the electronic Form 8850, and (2) authenticate and verify the submission. For this purpose, the terms "authenticate" and "verify" have the same meaning as they do when applied to a written signature on a paper Form 8850. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature of the employer must be the final entry in the submission.

(4) *Copies of Electronic Form 8850.* The electronic system must enable the employer to supply and, upon request by the Internal Revenue Service, the employer must supply (A) a hard copy of the electronic Form 8850 submitted to the SESA and (B) a statement that, to the best of the employer's knowledge, the electronic Form 8850 was submitted by the employer with respect to the named job applicant. The hard copy of the electronic Form 8850 must provide exactly the same information as, but need not be a facsimile of, the paper Form 8850.

(5) *Retention of Forms 8850 by the SESAs and Employers.* Electronic Forms 8850 have the same status as paper Forms 8850. Therefore, guidance that applies to paper Forms 8850 also applies to electronic Forms 8850. For example, as is the case for paper Forms 8850, electronic Forms 8850 are required to be retained by employers under their established record-keeping systems. For further information, see Rev. Proc. 98-25 (1998-1 C.B. 689) (information regarding the retention of records within an Automatic Data Processing System).

Drafting Information

The principal author of this announcement is Robert Wheeler. For further information regarding this announcement, contact Karin Loverud at (202) 622-6080 (not a toll-free call).

IRS Issues Document Warning Taxpayers to be Aware of Home-Based Business Tax Avoidance Schemes

Announcement 2002-48

The Internal Revenue Service just released a new brochure entitled *Home-Based Business Tax Avoidance Schemes . . . At A Glance*. The schemes described in the document claim to offer tax "relief," but actually result in illegal tax avoidance.

The promoters of these schemes claim that by setting up a bogus home-based business, individual taxpayers can deduct most, or all, of their personal expenses as business expenses. The brochure includes some examples of personal expenses that are not deductible but are commonly claimed as business expenses in home-based business tax avoidance schemes.

The brochure explains that no matter how convincing the claims that are found in marketing materials for these schemes may appear, nondeductible personal living expenses cannot be transformed into deductible business expenses. The tax code firmly establishes that a clear business purpose and profit motive must exist in order to generate and claim allowable business expenses.

Taxpayers who claimed such deductions on a past tax return should file an amended return as soon as possible to limit possible interest and penalties on top of any taxes they might owe.

To find out more about home-based business tax avoidance schemes, order IRS Document 01300 (02-2002) by calling 1-800-829-2437, or visit www.irs.gov.